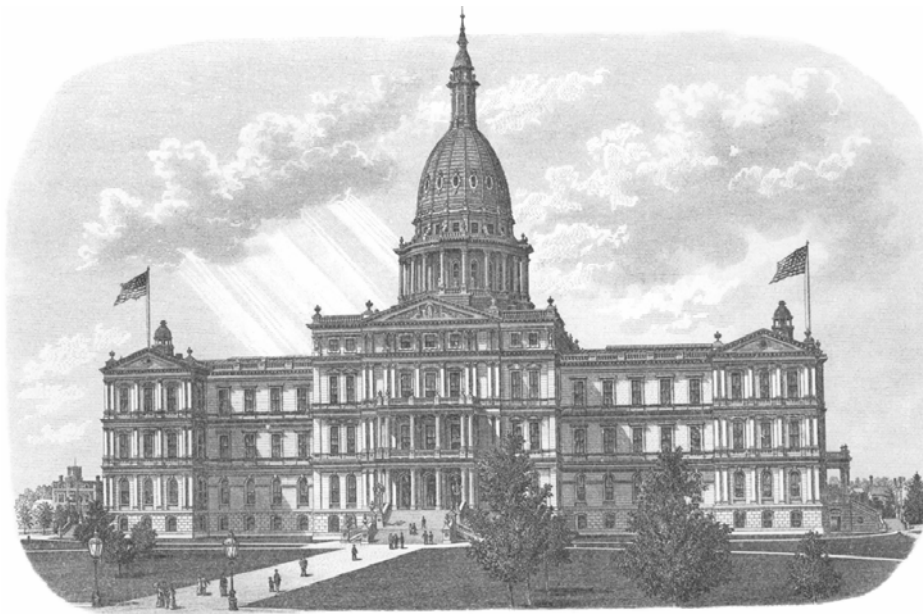


# Michigan Register

Issue No. 2– 2009 (Published February 15, 2009)



# GRAPHIC IMAGES IN THE MICHIGAN REGISTER

## COVER DRAWING

### *Michigan State Capitol:*

This image, with flags flying to indicate that both chambers of the legislature are in session, may have originated as an etching based on a drawing or a photograph. The artist is unknown. The drawing predates the placement of the statue of Austin T. Blair on the capitol grounds in 1898.

(Michigan State Archives)

## PAGE GRAPHICS

### *Capitol Dome:*

The architectural rendering of the Michigan State Capitol's dome is the work of Elijah E. Myers, the building's renowned architect. Myers inked the rendering on linen in late 1871 or early 1872. Myers' fine draftsmanship, the hallmark of his work, is clearly evident.

Because of their size, few architectural renderings of the 19<sup>th</sup> century have survived. Michigan is fortunate that many of Myers' designs for the Capitol were found in the building's attic in the 1950's. As part of the state's 1987 sesquicentennial celebration, they were conserved and deposited in the Michigan State Archives.

(Michigan State Archives)

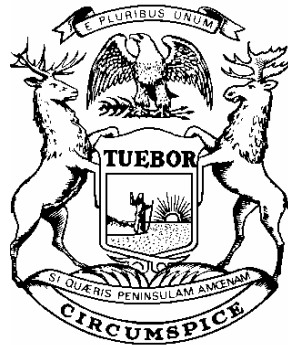
### *East Elevation of the Michigan State Capitol:*

When Myers' drawings were discovered in the 1950's, this view of the Capitol – the one most familiar to Michigan citizens – was missing. During the building's recent restoration (1989-1992), this drawing was commissioned to recreate the architect's original rendering of the east (front) elevation.

(Michigan Capitol Committee)

# Michigan Register

Published pursuant to § 24.208 of  
The Michigan Compiled Laws



Issue No. 2— 2009

(This issue, published February 15, 2009, contains  
documents filed from January 15, 2009 to January 31, 2009)

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**Peter Plummer**, Executive Director, State Office of Administrative Hearings and Rules; **Deidre O'Berry**, Administrative Rules Analyst for Operations and Publications.

**Jennifer M. Granholm, Governor**



**John D. Cherry Jr., Lieutenant Governor**

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## PREFACE

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### PUBLICATION AND CONTENTS OF THE MICHIGAN REGISTER

The State Office of Administrative Hearings and Rules publishes the *Michigan Register*.

While several statutory provisions address the publication and contents of the *Michigan Register*, two are of particular importance.

**24.208 Michigan register; publication; cumulative index; contents; public subscription; fee; synopsis of proposed rule or guideline; transmitting copies to office of regulatory reform.**

Sec. 8.

(1) The office of regulatory reform shall publish the Michigan register at least once each month. The Michigan register shall contain all of the following:

- (a) Executive orders and executive reorganization orders.
  - (b) On a cumulative basis, the numbers and subject matter of the enrolled senate and house bills signed into law by the governor during the calendar year and the corresponding public act numbers.
  - (c) On a cumulative basis, the numbers and subject matter of the enrolled senate and house bills vetoed by the governor during the calendar year.
  - (d) Proposed administrative rules.
  - (e) Notices of public hearings on proposed administrative rules.
  - (f) Administrative rules filed with the secretary of state.
  - (g) Emergency rules filed with the secretary of state.
  - (h) Notice of proposed and adopted agency guidelines.
  - (i) Other official information considered necessary or appropriate by the office of regulatory reform.
  - (j) Attorney general opinions.
  - (k) All of the items listed in section 7(m) after final approval by the certificate of need commission under section 22215 of the public health code, 1978 PA 368, MCL 333.22215.
- (2) The office of regulatory reform shall publish a cumulative index for the Michigan register.
- (3) The Michigan register shall be available for public subscription at a fee reasonably calculated to cover publication and distribution costs.
- (4) If publication of an agency's proposed rule or guideline or an item described in subsection (1)(k) would be unreasonably expensive or lengthy, the office of regulatory reform may publish a brief synopsis of the proposed rule or guideline or item described in subsection (1)(k), including information on how to obtain a complete copy of the proposed rule or guideline or item described in subsection (1)(k) from the agency at no cost.
- (5) An agency shall electronically transmit a copy of the proposed rules and notice of public hearing to the office of regulatory reform for publication in the Michigan register.

**4.1203 Michigan register fund; creation; administration; expenditures; disposition of money received from sale of Michigan register and amounts paid by state agencies; use of fund; price of Michigan register; availability of text on internet; copyright or other proprietary interest; fee prohibited; definition.**

Sec. 203.

- (1) The Michigan register fund is created in the state treasury and shall be administered by the office of regulatory reform. The fund shall be expended only as provided in this section.
- (2) The money received from the sale of the Michigan register, along with those amounts paid by state agencies pursuant to section 57 of the administrative procedures act of 1969, 1969 PA 306, MCL 24.257, shall be deposited with the state treasurer and credited to the Michigan register fund.
- (3) The Michigan register fund shall be used to pay the costs of preparing, printing, and distributing the Michigan register.
- (4) The department of management and budget shall sell copies of the Michigan register at a price determined by the office of regulatory reform not to exceed the cost of preparation, printing, and distribution.
- (5) Notwithstanding section 204, beginning January 1, 2001, the office of regulatory reform shall make the text of the Michigan register available to the public on the internet.
- (6) The information described in subsection (5) that is maintained by the office of regulatory reform shall be made available in the shortest feasible time after the information is available. The information described in subsection (5) that is not maintained by the office of regulatory reform shall be made available in the shortest feasible time after it is made available to the office of regulatory reform.
- (7) Subsection (5) does not alter or relinquish any copyright or other proprietary interest or entitlement of this state relating to any of the information made available under subsection (5).
- (8) The office of regulatory reform shall not charge a fee for providing the Michigan register on the internet as provided in subsection (5).
- (9) As used in this section, "Michigan register" means that term as defined in section 5 of the administrative procedures act of 1969, 1969 PA 306, MCL 24.205.

**CITATION TO THE MICHIGAN REGISTER**

The *Michigan Register* is cited by year and issue number. For example, 2001 MR 1 refers to the year of issue (2001) and the issue number (1).

**CLOSING DATES AND PUBLICATION SCHEDULE**

The deadlines for submitting documents to the State Office of Administrative Hearings and Rules for publication in the *Michigan Register* are the first and fifteenth days of each calendar month, unless the submission day falls on a Saturday, Sunday, or legal holiday, in which event the deadline is extended to include the next day which is not a Saturday, Sunday, or legal holiday. Documents filed or received after 5:00 p.m. on the closing date of a filing period will appear in the succeeding issue of the *Michigan Register*.

The State Office of Administrative Hearings and Rules is not responsible for the editing and proofreading of documents submitted for publication.

Documents submitted for publication should be delivered or mailed in an electronic format to the following address: MICHIGAN REGISTER, State Office of Administrative Hearings and Rules, Ottawa Building - Second Floor, 611 W. Ottawa, P.O. Box 30695, Lansing, MI 48933.

### **RELATIONSHIP TO THE MICHIGAN ADMINISTRATIVE CODE**

The *Michigan Administrative Code* (1979 edition), which contains all permanent administrative rules in effect as of December 1979, was, during the period 1980-83, updated each calendar quarter with the publication of a paperback supplement. An annual supplement contained those permanent rules, which had appeared in the 4 quarterly supplements covering that year.

Quarterly supplements to the Code were discontinued in January 1984, and replaced by the monthly publication of permanent rules and emergency rules in the *Michigan Register*. Annual supplements have included the full text of those permanent rules that appear in the twelve monthly issues of the *Register* during a given calendar year. Emergency rules published in an issue of the *Register* are noted in the annual supplement to the Code.

### **SUBSCRIPTIONS AND DISTRIBUTION**

The *Michigan Register*, a publication of the State of Michigan, is available for public subscription at a cost of \$400.00 per year. Submit subscription requests to: State Office of Administrative Hearings and Rules, Ottawa Building - Second Floor, 611 W. Ottawa, P.O. Box 30695, Lansing, MI 48933. Checks Payable: State of Michigan. Any questions should be directed to the State Office of Administrative Hearings and Rules (517) 335-2484.

### **INTERNET ACCESS**

The *Michigan Register* can be viewed free of charge on the Internet web site of the State Office of Administrative Hearings and Rules: [www.michigan.gov/cis/0,1607,7-154-10576\\_35738---,00.html](http://www.michigan.gov/cis/0,1607,7-154-10576_35738---,00.html)

Issue 2000-3 and all subsequent editions of the *Michigan Register* can be viewed on the State Office of Administrative Hearings and Rules Internet web site. The electronic version of the *Register* can be navigated using the blue highlighted links found in the Contents section. Clicking on a highlighted title will take the reader to related text, clicking on a highlighted header above the text will return the reader to the Contents section.

Peter Plummer, Executive Director  
State Office of Administrative Hearings and Rules



## 2009 PUBLICATION SCHEDULE

Issue No.	Closing Date for Filing or Submission Of Documents (5 p.m.)	Publication Date
1	January 15, 2009	February 1, 2009
2	February 1, 2009	February 15, 2009
3	February 15, 2009	March 1, 2009
4	March 1, 2009	March 15, 2009
5	March 15, 2009	April 1, 2009
6	April 1, 2009	April 15, 2009
7	April 15, 2009	May 1, 2009
8	May 1, 2009	May 15, 2009
9	May 15, 2009	June 1, 2009
10	June 1, 2009	June 15, 2009
11	June 15, 2009	July 1, 2009
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19	October 15, 2009	November 1, 2009
20	November 1, 2009	November 15, 2009
21	November 15, 2009	December 1, 2009
22	December 1, 2009	December 15, 2009
23	December 15, 2009	January 1, 2010
24	January 1, 2010	January 15, 2010

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**PROPOSED ADMINISTRATIVE RULES,  
NOTICES OF PUBLIC HEARINGS**

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*MCL 24.242(3) states in part:*

*“... the agency shall submit a copy of the notice of public hearing to the State Office of Administrative Hearings and Rules for publication in the Michigan register. An agency's notice shall be published in the Michigan register before the public hearing and the agency shall file a copy of the notice of public hearing with the State Office of Administrative Hearings and Rules.”*

*MCL 24.208 states in part:*

*“Sec. 8. (1) The State Office of Administrative Hearings and Rules shall publish the Michigan register at least once each month. The Michigan register shall contain all of the following:*

\*       \*       \*

*(d) Proposed administrative rules.*

*(e) Notices of public hearings on proposed administrative rules.”*

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**PROPOSED ADMINISTRATIVE RULES**

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SOAHR 2008-001

DEPARTMENT OF ENERGY, LABOR & ECONOMIC GROWTH

DIRECTOR'S OFFICE

MICHIGAN BOILER RULES

Filed with the Secretary of State on  
These rules take effect 60 days after filing with Secretary of State

(By authority conferred on the director of the department of energy, labor & economic growth by section 4 of 1965 PA 290, executive reorganization order nos. 1996-2, 2003-1 and 2008-20, MCL 408.754, MCL 445.2001, MCL 445.2011 and MCL 445.2025)

Draft January 28, 2009

R 408.4012, R 408.4024, R 408.4025, R 408.4026, R 408.4027, R 408.4031, R 408.4032, R 408.4033, R 408.4038, R 408.4047, R 408.4057, R 408.4058, R 408.4087, R 408.4109, R 408.4114, R 408.4121, R 408.4127, R 408.4171, R 408.4193, R 408.4195, R 408.4197, R 408.4507, and R 408.4701 of the Michigan Administrative Code are amended to the Code and R 408.4186 of the Code is rescinded as follows:

**PART 1. GENERAL PROVISIONS**

R 408.4012 Definitions.

Rule 12. (1) "Accident" means a sudden and accidental breakdown of a boiler or a part of a boiler that results in physical damage to the boiler which necessitates the repair or replacement of the boiler or a part of the boiler. "Accident" does not mean a breakdown due to any of the following unless a unique or unusual explosion hazard exists as a result of the breakdown:

- (a) Normal erosion.
- (b) Corrosion.
- (c) Wastage of metal that requires restoration.
- (d) Leaking tubes.
- (e) Weakened metal, such as water legs or handhole areas.

(2) "Act" means 1965 PA 290, MCL 408.751 et seq.

(3) "Aftercooler" means a device used for lowering the temperature of a boiler blowoff discharge before it enters the building drain.

(4) "Alteration" means any change in the item described on the original manufacturer's data report that affects the pressure-containing capability of the boiler or its piping. A nonphysical change such as an increase in the maximum allowable working pressure (internal or external) or design temperature of a boiler or its piping is an alteration.

(5) "ASME," "ASME boiler and pressure vessel code," "ASME code," or "code" means the boiler and pressure vessel code of the American Society of Mechanical Engineers, with addenda, as prescribed and approved by the council of the society.

(6) “Authorized inspector” means an individual who is designated as an authorized inspector by an authorized inspection agency, who holds a valid certificate of competency and national board commission with an “A” or “B” endorsement, and who is employed by the authorized inspection agency that assumes responsibility for the individual’s actions.

(7) “Board of boiler rules” or “board” means the board created by the act.

(8) “Boiler assembler” means a corporation, company, partnership, or individual who assembles a boiler that has been delivered in pieces. For ASME code section I power boiler assemblies, a boiler assembler shall possess the appropriate code symbol stamps.

(9) “Boiler blowoff piping” means the piping, fittings, and valves from the boiler to the blowoff tank, blowoff separator, or other safe point of discharge through which the water in the boiler may be blown out under pressure, except for drains such as those used in water columns, gauge glasses, or piping to feed water regulators and similar devices.

(10) “Boiler blowdown vessel” means an unfired pressure vessel into which water is discharged above atmospheric pressure from a boiler blowoff line.

(11) “Boiler installation” means the installation of a boiler, including all connected piping, valves, fittings, flanges, firing equipment, controls, appurtenances, and auxiliaries. The term includes the field assembly of boilers.

(12) “CSD-1” means the ASME code for controls and safety devices for automatically fired boilers.

(13) “Certificate of competency” means a certificate issued to a person who has passed an examination for inspectors prescribed by the board of boiler rules.

(14) “Chief inspector” means the chief boiler inspector appointed under the act.

(15) “Condemned boiler” means a boiler that has been inspected and declared unsafe or rejected for use by an inspector who is qualified to take such action and who has applied a stamping or marking designating its rejection.

(16) “Department” means the department of **energy**, labor and economic growth.

(17) “Deputy inspector” means an inspector who is licensed under the act and appointed by the director.

(18) “Existing installation” means and includes any steam boiler constructed, installed, placed in operation, or contracted for before August 10, 1917, or any hot water heating or supply boiler constructed, installed, placed in operation, or contracted for before the effective date of these rules.

(19) “External inspection” means an inspection which is conducted while the boiler is under pressure and which does not involve examination of the internal surfaces of the pressure parts of the boiler.

(20) “Field assembly” means assembling prefabricated boiler pressure parts without field welding or riveting.

(21) “Field erection” means the erecting and assembling of boiler parts by welding, riveting, or other fabrication processes.

(22) “Flash tank” means a closed vessel equipped with internal baffles or an apparatus for the purpose of separating moisture from flash steam as it passes through the vessel.

(23) “Hobby” means an interest or activity that a person pursues in his or her leisure time without compensation.

(24) “Hot water heating and hot water supply boiler” means a boiler that operates at pressures of not more than 160 psi or temperatures of not more than 250 degrees Fahrenheit, at or near the boiler outlet.

(25) “Inspector” means an individual who holds a valid certificate of competency and national board commission.

(26) “Internal inspection” means an inspection made when a boiler is shut down and handholes or manholes are opened for inspection of the interior.

(297) “Labeled” means devices, equipment, appliances, or material to which have been affixed a label, seal, symbol, or other identifying mark of a nationally recognized testing laboratory, inspection agency, or other organization concerned with product evaluation that maintains periodic inspection of the production of the items and by whose label the manufacturer attests to compliance with applicable nationally recognized standards.

(278) “Licensed boiler installer” means a person licensed under the act to engage in the business of making piping connections to a boiler or in the business of field-assembling boilers.

(289) “Licensed boiler repairer” means a person licensed under the act to engage in making or supervising all phases of boiler repair, alteration, or field erection.

(320) “Listed” means equipment, appliances, or material included in a list published by a nationally recognized testing laboratory, inspection agency, or other organization concerned with product evaluation that maintains periodic inspection of production of listed equipment, appliances, or materials, and whose listing states either that the equipment, appliances, or material meets nationally recognized standards or has been tested and found suitable for use in a specified manner. The authority having jurisdiction shall utilize the system employed by the listing organization to identify a listed product.

**(301) “Mechanical assembly” means the work necessary to establish or restore a pressure retaining boundary whereby pressure retaining capability is established through a mechanical, chemical, or physical interface.**

**(342) “Mechanical repair” means a method of repair which restores a pressure retaining boundary to a safe and satisfactory operating condition, where the pressure retaining boundary is established by a method other than welding or brazing.**

~~(30) “Michigan special” means a boiler that is not built in compliance with the code., or A boiler is a noncode boiler if it is not stamped with the ASME code symbol stamp.~~

(343) “Miniature boiler” means a power boiler that does not have any of the following:

- (a) An inside diameter of the shell of more than 16 inches.
- (b) A working pressure of more than 100 psig.
- (c) A gross volume of more than 5 cubic feet.
- (d) More than 20 square feet of heating surface.

(334) “Miniature locomotive boiler” means a miniature hobby steam locomotive boiler which operates on a narrow gauge track that is less than 24 inches wide and which is for public display or use.

**(35) “Modular boiler” means a steam or hot-water heating assembly consisting of a grouping of individual boilers called modules, intended to be installed as a unit, with a single inlet and a single outlet. Modules may be under 1 jacket or may be individually jacketed.**

~~(3-4-6)~~ “NBIC” means national board inspection code.

~~(357)~~ “New boiler” means a boiler constructed, installed, placed in operation, or contracted for after July 1, 1966.

(368) “Nonstandard boiler” means a boiler that does not bear the national board stamping or the stamp of any state or political subdivision which has adopted a standard of construction equivalent to that required by the board of boiler rules.

(39) “Owner or user” means a person, firm, partnership, or corporation that owns or operates a boiler within this state.

**(40) “Out-of-use boiler” means a boiler not ready for use having the fuel supply, electricity, and all piping that may pressurize the boiler disconnected.**

~~(3841)~~ “Portable boiler” means a boiler which is primarily intended for temporary location and which is, by its construction and usage, obviously portable.

**(42) “Pressure-retaining items” means any boiler, pressure vessel, piping, or material used for the containment of pressure, either internal or external. The pressure may be obtained from an external source, or by the application of heat from a direct source, or any combination thereof.**

**(3943) “Reinstalled boiler”** means a boiler which is removed from its original setting and which is reinstalled at the same location or reinstalled at a new location.

**(404) “Rental boiler”** means a boiler which is in temporary use for not more than 1 year and which may or may not be installed inside a boiler room, temporary room, or temporary shed or without external covering.

**(415) “Repair”** means the work necessary to restore a boiler or its piping to a safe and satisfactory operating condition.

**(426) “Safe point of discharge”** means a point of discharge that will protect personnel and property from injury due to discharge.

**(437) “Special inspector”** means a boiler inspector who holds a license in the state of Michigan pursuant to 1965 PA 290, MCL 408.751 et seq. and who is regularly employed by an insurance company authorized to insure against a loss from boiler accidents in this state or by any city that is exempt under the act and has an authorized boiler inspection department.

**(4-4-8) “Standard boiler”** means a boiler that bears the stamp of the national board of boiler and pressure vessel inspectors or of another state or political subdivision which has adopted a standard of construction equivalent to that required by the board of boiler rules of this state.

**(4549) “Traction boiler”** means a boiler designed for the express purpose of pulling farm equipment or to convert steam power into flywheel energy driving farm apparatus such as threshers, saws, or grinding equipment.

**(-4650) “Used boiler”** means a boiler that is being reinstalled by the same owner.

**(4751) “Water heater”** means a heater for use in commercial or industrial sizes providing corrosion resistance for supplying potable hot water at pressures not exceeding 160 psi or temperatures not exceeding 210 degrees Fahrenheit. A water heater that does not exceed any of the following is exempt from these rules:

- (a) A heat input of more than 200,000 BTU per hour.
- (b) A water temperature of more than 210 degrees Fahrenheit.
- (c) A nominal water-containing capacity of more than 120 gallons.

R 408.4024 Adoption of ~~national board inspection code (NBIC)~~ by reference.

Rule 24. (1) The owner shall ensure the inspection, repair, and alteration of boilers, piping, and blowdown vessels is in accordance with the ~~national board inspection code~~ **NBIC, 20042007 edition and 2005 addenda** except as modified by these rules. The code ~~and 2005 addenda~~ **are** adopted by reference in these rules and are available for inspection at the Michigan Department of **Energy, Labor & Economic Growth, Bureau of Construction Codes and Fire Safety**, 6546 Mercantile Way, Lansing, Michigan 48911 or from the National Board of Boiler and Pressure Vessel Inspectors, 1055 Crupper Avenue, Columbus, Ohio 43229, at a cost as of the time of adoption of these amendatory rules for a total of ~~\$150.00~~ **189.50**.

(2) The accreditation program described in the NBIC for repairs and alterations to pressure retaining items is mandatory for repairs to all power boilers and high pressure high temperature water boilers and alterations to any boiler not exempt by these rules. Repair companies in possession of a certificate of authorization issued by the national board of boiler and pressure vessel inspectors to repair and alter pressure retaining items shall have in their employ an individual with an appropriate class repairer license issued by the boiler division of the department. Repair companies not currently in possession of the certificate of authorization or a certificate of authorization issued by ASME shall have 1 year from

the date of adoption of this rule to secure the certificate. Companies currently in possession of a valid certificate issued by ASME have until the next certificate review or 1 year, whichever is greater, to secure the certificate of authorization identified above. The board may waive the time requirement if appropriate justification is presented.

(3) Where the text of the NBIC refers to the “certificate holder,” the reference shall apply to all licensed boiler repairers, except when the reference is in relation to completion of NBIC forms and NBIC stamping, the reference shall refer to repair companies in possession of a valid certificate of authorization issued by the national board of boiler and pressure vessel inspectors to repair and alter pressure retaining items.

(4) The standard welding procedures referenced in the NBIC are accepted for use in this state, but are not mandatory. A licensed boiler repairer who elects to use 1 or more of the standard welding procedures shall file a list of the standard welding procedure identification numbers with the boiler division of the department before conducting any repairs or alterations requiring welding.

R 408.4025 ASME code; adoption by reference.

Rule 25. (1) A boiler, **blow down vessel, and expansion tank** shall be constructed as prescribed by these rules and the ASME boiler and pressure vessel code, ~~2004 edition, and its 2005 addenda.~~ ~~Sections I, II, III, IV, V, VIII, IX, X, XI, 2007 edition and its 2008a addenda of the code,~~ and ASME ~~code B31.1-2004~~**2007** edition, power piping, are adopted by reference in these rules and are available for inspection at the Michigan Department of, **Energy**, Labor & Economic Growth, Bureau of Construction Codes ~~and Fire Safety~~, 6546 Mercantile Way, Lansing, Michigan 48911 or from the ASME International, 22 Law Drive, Fairfield, New Jersey 07007, at a cost as of the time of adoption of these amendatory rules of ~~\$10,900.00~~**12,874.99** and ~~\$265.00~~**315.00** respectively.

(2) The board may accept pressure-retaining items which have been constructed to standards other than ASME standards and which have been accepted by application of the national board of boiler and pressure vessel inspectors’ criteria for registration procedure.

(3) The owner shall not recalculate design maximum allowable working pressures based on ASME codes published after 1998 for boilers in-service before December 31, 1998.

R 408.4026 Inspection and stamping during construction.

Rule 26. ~~(1) An authorized inspector who is licensed to inspect boilers in this state shall, during construction, inspect all boilers, other than cast iron sectional boilers, to be installed in this state, as required by the applicable rules of the board of boiler rules. If a boiler is constructed outside of this state, an authorized inspector who holds a license as an inspector of boilers for a state that has a standard of examination substantially equal to that of this state as provided for in R 408.4071 or who holds a commission issued by the national board of boiler and pressure vessel inspectors shall inspect the boiler.~~

~~(2) The manufacturer shall register a boiler, blowdown vessel, and expansion tank other than a cast iron sectional boiler built or constructed for use in this state after the effective date of these rules, with the national board of boiler and pressure vessel inspectors.~~

R 408.4027 Adoption; ASME code CSD-1.

Rule 27. (1) The owner shall ensure that the ~~assembly~~**installation**, maintenance, operation, and testing of controls and safety devices is in accordance with manufacturer’s instructions and ASME code CSD-1, ~~2004~~**2006** edition, except as modified by these rules. The code ~~and the 2005 addenda are~~ adopted by reference in these rules and are available for inspection at the Michigan Department of **Energy**, Labor & Economic Growth, Bureau of Construction Codes ~~and Fire Safety~~, 6546 Mercantile Way, Lansing, Michigan 48911 or from the ~~American Society of Mechanical Engineers~~, 22 Law Drive,



Fairfield, New Jersey 07007, at a cost as of the time of adoption of these amendatory rules of ~~\$65.00~~**\$85.00**.

(2) An owner or user of a boiler system shall ensure that the ~~assembly~~—maintenance and testing of controls and safety devices is conducted by an individual with a valid mechanical contractor license with the appropriate classification pursuant to 1984 PA 192, MCL 338.971 et seq.

(3) An owner or user shall provide the inspector, at the time of certificate inspection, with evidence showing what tests have been completed annually. The evidence shall be a dated and signed service report or checklist, listing each control and safety device tested with the manufacturer's name, model number, set point, and actual operational test point. An example of a report or checklist may be found in CSD-1, ~~2004~~**2006** edition, appendix C. If an owner does not provide the inspector with the required evidence of annual testing for each year between certificate inspections, then the inspector may issue a certificate of inspection for a term less than that stated in R 408.4057.

**Exception: For hot water heating boilers with a BTU input of 400,000 or less, the requirements of this rule need only be conducted once during an inspection cycle but shall be performed within 12 months prior to the certificate inspection required by R 408.4057(1)(c).**

(4) The owner, user, or operator of a boiler system shall ensure that the daily, weekly, and monthly operational checks are performed and documented pursuant to the manufacturer's instructions and these rules. **If the manufacturer's instructions are not available, CSD-1, 2004**~~2006~~ **edition**, nonmandatory appendix D contains a recommended checklist for additional information on periodic checks.

**(5) A manually operated remote shutdown switch as required by CSD-1, 2006 edition, shall be located outside of each exit access doorway to the boiler room. The switch may be located just inside each exit access doorway should a possibility of tampering or weather conditions exist. A licensee may request a deviation from the requirements of this subrule by submitting drawings clearly showing the deviation and stating justification for the request to the chief inspector for review and approval before the installation of a boiler. The chief inspector shall notify the licensee of the approval or denial of the request.**

**(6) A single manually operated remote shutdown switch may be used in a multiple boiler installation that shares a common boiler room.**

**Exception: Kitchen cooking boilers, steam kettles, and steam cookers used for food preparation located in a kitchen shall be exempt from a manually operated remote shutdown switch.**

**(7) Where applicable, the boiler installation shall comply with the Michigan mechanical code, R 408.30901 to R 408.30998, Michigan plumbing code, R 408.30701 to R 408.30796 and Michigan electrical code, R 408.30801 to R 408.30880.**

R 408.4031 Installation and reinstallation of boilers.

Rule 31. (1) The owner shall ensure that the installation of a new boiler or a reinstalled boiler is in accordance with the requirements of these rules, ~~and the ASME boiler and pressure vessel code, 2004~~**2007** edition, which is adopted by reference in R 408.4025 ~~and the NBIC 2007 edition, which is adopted by reference in R 408.4024.~~

**(2) Where applicable, the boiler installation shall comply with the Michigan mechanical code, R 408.30901 to R 408.30998, Michigan plumbing code, R 408.30701 to R 408.30796 and Michigan electrical code, R 408.30801 to R 408.30880.**

Exception: (1) The ASME code requirement for the completion of a P4B data report for the installation of mechanically assembled boiler external piping is not required.

**(2) The NBIC code, part 1, section 2, paragraph 2.4.4, is enforced by the Michigan plumbing code, R 408.408.30701 to R 408.30796.**

**(3) Witnessing of the pressure test required by the NBIC part 1, section 2, paragraph 2.10.2, is not required.**

**(4) The NBIC code, part 1, section 3, paragraph 3.6.1, is enforced by the Michigan mechanical code, R 408.30901 to R 408.30998.**

R 408.4032 Non-boiler external piping; power boilers; adoption of standards by reference.

Rule 32. (1) The owner shall ensure that the installation of piping not covered by the ASME boiler and pressure vessel code, section I, ~~2004~~**2007** edition, and its ~~2004~~**2008a** addenda is installed as prescribed by the ASME code for pressure piping, B31.1, ~~2004~~**2007** edition, adopted by reference in R 408.4025.

(2) The owner of a chemical plant or petroleum refinery shall comply with subrule (1) of this rule or shall ensure the installation is installed as prescribed by the ASME code for chemical plants and petroleum refineries, B31.3, ~~2002~~**2007** edition.

(3) A licensee under this rule is not required to possess an ASME code symbol stamp, but shall hold a valid installer's license.

(4) The owner shall ensure that the installation of all of the following piping is in accordance with subrule (1) of this rule:

- (a) Blowoff piping beyond the second valve out to the safe point of discharge.
- (b) Steam piping out to the load.
- (c) Feed-water piping from the pump.
- (d) Condensate piping.

R 408.4033 Permits; documentation for installation, reinstallation, alteration, and repair of boilers, boiler external piping, and non-boiler external piping.

Rule 33. (1) All of the following provisions apply to installation permits:

(a) A person shall not install, or reinstall, a boiler without holding a proper license and first securing a permit from the boiler division of the department. The licensee applying for the permit shall ensure that work does not proceed until an approved permit has been secured.

(b) A person shall not install or replace welded pipe without holding a proper license and first securing a permit from the boiler division of the department. The licensee applying for the permit shall ensure that work does not proceed until an approved permit has been secured.

(c) A person shall not install nonwelded pipe without holding a proper license. A permit is not required.

(2) All of the following provisions apply to repair and alteration permits or reports:

(a) A person shall not alter or repair a boiler without holding a proper license and first securing a permit from the boiler division of the department. The licensee applying for the permit shall ensure that work does not proceed until an approved permit has been secured, except as provided by section 18 of the act.

(b) A person shall not repair or replace welded piping without holding a proper license and first securing a permit from the boiler division of the department. The licensee applying for the permit shall ensure that work does not proceed until an approved permit has been secured, except as provided for in section 18 of the act.

(c) A person shall not replace nonwelded piping without holding a proper license. A permit is not required.

(d) A person shall not perform welded repairs to nonwelded piping without holding a proper license and first securing a permit from the boiler division of the department. The licensee applying for the

permit shall ensure that work does not proceed until an approved permit has been secured, except as provided for in section 18 of the act.

(e) A licensee who makes welded repairs to boilers or boiler external piping requiring the use of the national board “R” symbol stamp shall furnish the boiler division of the department, with 1 copy of the approved permit application, along with reports as required by the NBIC, upon completion of the work.

(f) A public utility or industrial plant that has been granted exemption under section 23 of the act that makes a welded repair to a boiler or boiler external piping, as defined in section I of the ASME code, shall furnish the boiler division of the department with a completed repair report on forms prescribed by the boiler division.

(g) A public utility or industrial plant that has been granted an exemption under section 23 of the act that makes a welded repair to non-boiler external piping shall maintain records of the repairs and make the records available for review as required by the board of boiler rules.

~~(h3)~~ A permit is required for a change in use of an existing boiler or replacement by mechanical methods, without welding, of sections in sectional boilers; heat exchangers; feed water heater or economizer; and, tube bundles. A licensee replacing boiler components required by these rules to be code symbol stamped and national board registered shall provide the boiler division of the department with documentation supporting compliance **with the manufacturer’s data reports.**

~~(34)~~ Any changes in the scope of work stated on the original permit application shall be submitted to the inspector for review and approval and reported to the boiler division.

#### R 408.4038 Fees.

Rule 38. (1) Fees for licenses, permits, certificates, and inspections are as follows:

##### Licenses

Installer license	\$80.00.
<b>Installer exam</b>	<b>\$100.00.</b>
Installer renewal	\$80.00.
Repairer license	\$80.00.
Repairer exam	\$100.00.
Repairer renewal	\$80.00.
Inspector license	\$80.00.
Inspector exam	\$100.00.
Inspector renewal	\$50.00.

**Examination fees are nonrefundable.**

##### Permit applications

Nuclear installation permit application	\$1,380.00.
Nuclear repair permit application	\$400.00.
Low-pressure installation permit application	\$75.00.
High pressure installation permit application	\$120.00 +.05 per foot of piping.
Repair permit application	\$75.00.

Permit application fees are nonrefundable.

##### Certificates

Certificates	\$40.00.
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## Inspections

Power boilers-150 square feet or less	\$50.00.
Power boilers-more than 150 square feet to 4,000 square feet	\$145.00.
Power boilers-more than 4,000 square feet to 10,000 square feet	\$160.00.
Power boilers-more than 10,000 square feet	\$185.00.
Low-pressure heating boiler without manhole	\$50.00.
Inspection of an additional low-pressure heating boiler without a manhole at the same physical location, on the same date	\$40.00.
Low-pressure heating boiler with manhole	\$65.00.
Low-pressure hot water supply boiler	\$40.00.
Inspection of an additional low-pressure hot water supply boiler at the same physical location, on the same date	\$25.00.
Low-pressure process boiler without manhole	\$50.00.
Low-pressure process boiler with manhole	\$65.00.
Miniature hobby locomotive boiler	\$15.00.

## Special inspections

(2) The boiler division shall provide special inspections not otherwise covered in the fee schedule. The charge for this service shall be at the rate of \$100.00 for the first hour and \$100.00 for each additional hour, plus lodging, meals, transportation, and other related expenses incurred for performing special inspections.

(3) Fees required under these rules shall be paid by cash, money order, or check to the department. Money orders or checks shall be made payable to: "State of Michigan."

## R 408.4047 Exempt boilers.

Rule 47. These rules do not apply to any of the following:

- (a) A boiler under federal control.
- (b) A swimming pool heater, open car wash heater, and similar types of equipment which do not have intervening valves on the return or discharge piping, which do not have a reduction in pipe size in the return or discharge piping, and which do not generate more than normal circulating pump pressure.
- (c) A miniature steam or marine engine used for a hobby.
- (d) A boiler used in the power plant of a self-propelled vehicle designed primarily for transportation of persons or property on a highway, except for a vehicle used exclusively on stationary rails or tracks.
- (e) A boiler used on a mint farm for mint processing purposes.
- (f) A nonvaporizing, organic fluid boiler if the boiler meets all of the following criteria:
  - (i) The system is vented and does not have valves or restrictions in the pipe between the boiler and the vent.
  - (ii) The vent pipe is sized so that the thermal expansion of the fluid will not result in an increase in pressure on the system, which is verifiable with engineering data.
  - (iii) The owner or user provides the boiler division of the department with calculations performed by an engineer, which verify that pressure due to thermal expansion cannot exist in the boiler as installed.
- (g) A low-pressure steam boiler that has a volume of less than 5 cubic feet and that does not have piped feed connections.
- (h) A water tube or coil type hot water heating boiler requiring forced circulation not exceeding any 1 of the following:**

- (i) Maximum water temperature of 200 degrees Fahrenheit.**
- (ii) Relief valve set pressure of 30 psi.**
- (iii) Heat input of 200,000 BTU/hr.**

**Exception. Modular or multiple boiler installations exceeding 1,000,000 BTU/hr input are not exempt.**

R 408.4057 Boiler inspection.

Rule 57. (1) Once a boiler has been inspected by the chief or deputy inspector and the boiler and its installation approved, all certificate inspections shall be conducted in accordance with the NBIC and these rules by an inspector who is properly licensed to inspect boilers in this state in accordance with the following provisions:

(a) A power boiler, process boiler, or high-pressure, high-temperature water boiler shall receive a certificate inspection annually and shall also be externally inspected annually, while under pressure, within 6 months from the date of the internal inspection.

(b) A low-pressure steam or vapor heating boiler shall receive a certificate inspection biennially.

(c) Hot water heating and hot water supply boilers shall receive a certificate inspection triennially, with an internal inspection at the discretion of the inspector.

(d) A nonvaporizing, organic fluid boiler that is not exempt under these rules shall receive an external certificate inspection triennially.

(e) A miniature hobby locomotive boiler shall receive a certificate inspection annually.

(f) A grace period of 2 months beyond the periods specified in subdivisions (a) to (e) of this subrule may lapse between certificate inspections, and the board may permit longer periods between certificate inspections.

(g) Internal inspection of cast ~~iron~~ boilers shall be at the discretion of the inspector.

(2) The certificate inspection shall be an internal inspection if construction allows, otherwise the certificate inspection shall be as complete an inspection as possible unless specified otherwise under this rule.

(3) The chief inspector, deputy inspector, or a special inspector provided for in the act shall make the inspections specified in this rule.

(4) If, at the discretion of the inspector, a hydrostatic test is necessary, the boiler owner or user shall ensure that the test is performed in the presence of the inspector.

R 408.4058 Extension of internal inspection certificate to 24 months.

Rule 58. (1) An internal boiler inspection may be increased from an annual inspection to a 24-month inspection frequency by approval of the board of boiler rules. An employee delegated by the utility or industrial facility shall apply for the extension. The following information shall be addressed by plant orders, procedures, or policies:

(a) Operator training.

(b) Boiler maintenance.

(c) Water chemistry.

(d) Operating parameters.

(e) Chemical cleaning schedule.

(f) Protective devices.

(g) Boiler external inspection.

(h) Testing of pressure relief valves in accordance with the NBIC. Repairs shall be conducted by the valve manufacturer or a “VR” stamp holder.

The information may be contained in 1 document or several if 1 document contains references to all other documents addressing the required information.

(2) The plant owner shall establish a review committee. The inspector shall be a member of the committee. The purpose of the committee is to determine the acceptability of a boiler to operate safely for a 24-month period. The committee shall have access to and review all information pertaining to the past operation, maintenance, and repair of the boiler. The review **committee meeting** shall be conducted within 30 days after the internal inspection. The committee may decrease the period of time the boiler may operate, but shall not extend the period beyond 24 months. **The signed summary report of the review committee meeting shall be submitted to the boiler division of the department.** The grace period provided under R 408.4057 does not apply to this rule. The inspector shall indicate the next inspection due date on his or her inspection report to the boiler division of the department.

(3) **Utilities or industrial facilities with a prescheduled boiler internal certificate inspection period shall communicate with the boiler division the date when the boiler is removed from service. The boiler internal inspection may occur at any time during the outage period. The next 24-month operating period shall be calculated based on the date of the certificate inspection conducted during this period.**

(34) An external inspection of the boiler shall be conducted while under pressure, within 12 months of the ~~internal~~ **certificate** inspection.

#### R 408.4087 Reporting unregistered boilers.

Rule 87. (1) If ~~an~~ **special** inspector visits a location to conduct an inspection as required by these rules, then he or she shall report the location of all boilers that are not registered. The report shall be in addition to the report pertaining to the inspection of registered boilers and their installation. The chief inspector shall assign a deputy inspector to visit the location to inspect all unregistered boilers and affix a Michigan serial number.

(2) If an inspector makes an inspection of a boiler that does not bear a Michigan serial number, then the inspector shall attempt to verify whether the boiler is unregistered or is missing the serial number tag. If the inspector is unable to determine that the boiler is registered, then he or she shall report it as prescribed in subrule (1) of this rule.

#### R 408.4109 Classes of boiler installer's licenses.

Rule 109. (1) A class 1B installer's license qualifies a person to install a low-pressure boiler that does not exceed a firing rate of 1,000,000 Btu per hour as certified by the boiler manufacturer. For a class 1B license, the sum of all modules in a modular boiler shall not exceed a firing rate of 1,000,000 Btu per hour as certified by the boiler manufacturer.

(2) A class 2B installer's license qualifies a person to **do all of the following:**

(a) ~~i~~**Install** a low-pressure boiler of any capacity or firing rate.

(b) ~~and to~~**To** perform work covered by a class 1B license.

(3) A class 3B installer's license qualifies a person to **do all of the following:**

(a) ~~i~~**Install** a power boiler, that has a capacity of not more than 5,000 pounds of steam per hour.

(b) **Install or replace non-boiler external piping as defined by ASME code B31.1 and R 408.4032.**

(c) ~~and to p~~**Perform** work covered by a class 2B license.

(4) A class 4B installer's license qualifies a person to **do all of the following:**

(a) ~~i~~**Install** a boiler that has a capacity of not more than 300,000 pounds of steam per hour.

(b) **Install or replace non-boiler external piping as defined by ASME code B31.1 and R 408.4032.**

(c) ~~and to p~~**Perform** work covered by a class 3B license.

(5) A class 5B installer's license qualifies a person to **do all of the following:**

- (a) ~~Install~~ a boiler of any capacity or firing rate. ~~eException: for a nuclear heat source boiler.~~
- (b) **Install or replace non-boiler external piping as defined by ASME code B31.1 and R 408.4032.**
- (c) Perform work covered by a class 4B license.
- (6) A class 6B installer's license qualifies a person to install a boiler that utilizes a nuclear heat source or its parts, appurtenances, or system components. Before a license is issued, an applicant for a class 6B license shall **submit** ~~give~~ evidence of **both of the following**:
  - (a) ~~Familiarity with and knowledge of all federal rules and regulations regarding the installation of a boiler that has a nuclear heat source.~~ ~~and shall be in the employ of~~
  - (b) **Employment by** a company in possession of a valid ASME nuclear code symbol applicable to the portions of any nuclear boiler system that the company proposes to install.
- (7) A class P license qualifies a person to install **or replace** non-boiler external piping or repair non-boiler external piping as defined by ASME code B31.1 and R 408.4032.

R 408.4114 Inspection of components and systems in a nuclear power plant.

Rule 114. (1) Preservice (baseline) inspection, in-service inspection, repair, replacement, modification, alteration, examination, testing, records, and reports of individual nuclear components, parts, appurtenances, piping, supports, nuclear systems, applicable associated auxiliary systems, and complete nuclear power plants that are in compliance with all of the requirements of the construction code, at the point in time the requirements have been completed, irrespective of the physical location, shall be as prescribed in section XI, rules for in-service inspection of nuclear power plant components, of the ASME boiler and pressure vessel code. A copy of the current edition of section XI is available for inspection at the Michigan Department of **Energy**, Labor & Economic Growth, Bureau of Construction Codes ~~and Fire Safety~~, 6546 Mercantile Way, Lansing, Michigan 48911 or from the ASME International, 22 Law Drive, Fairfield, New Jersey 07007, at a cost as of the time of adoption of these amendatory rules of ~~\$495.00~~ **\$10.00**.

(2) The owner of a nuclear power plant shall file inspection plans and schedules, pump and valve testing programs, and requests for relief from section XI of the ASME code requirements with the boiler division of the department.

(3) The nuclear power plant shall maintain compliance with requirements, as prescribed by the ~~Nuclear R~~regulatory ~~C~~commission.

R 408.4121 Examination for boiler repairer's license; establishment; administration; nuclear repairer license applicant; certificate of authorization; examination.

Rule 121. (1) ~~The examination for a boiler repairer's license shall be approved by the board of boiler rules.~~ The examination ~~will~~ **shall** be held quarterly at a location determined by the boiler division of the department.

(2) An applicant wishing to upgrade his or her license to a higher classification shall take the examination prescribed in subrule (1) of this rule.

(3) The director, upon the request of a company in possession of a valid ASME "N" type certificate of authorization or the national board of boiler and pressure vessel inspectors "NR" certificate of authorization, shall issue, to an individual of the company, a license as a nuclear repairer if the individual, before receiving his or her license, satisfactorily passes the examination prescribed in subrule (1) of this rule.

R 408.4127 Boiler repairers; classes of licenses.

Rule 127. (1) A class I license allows a licensee to repair a boiler by means other than welding, riveting, or other fabrication process.

(2) A class II license allows a licensee to **do both of the following:**

(a) ~~repair~~ **Repair** a low-pressure boiler, a hot water supply boiler, and a fire tube boiler of any pressure.

(b) ~~and to perform~~ **Perform** work covered by a class I license.

(3) A class III license allows a licensee to **do all of the following:**

(a) ~~Repair a high-pressure water tube boiler.~~

(b) **Repair or replace non-boiler external piping, as defined by ASME code B31.1 and R 408.4032, designed for a maximum allowable working pressure of not more than 700 psi and**

(c) **Perform work** ~~a boiler~~ covered by a class II license.

(4) A class IV license allows a licensee to **do all of the following:**

(a) ~~Repair or field erect a boiler of any pressure. eException: for a boiler that has a nuclear heat source.~~

(b) **Repair or replace non-boiler external piping as defined by ASME code B31.1 and R 408.4032.**

~~A licensee who field erects boilers shall be in the employ of a company in possession of the appropriate ASME code symbol stamps for the type of boiler being erected.~~

(5) A class V license allows a licensee to erect and repair a boiler that has a nuclear heat source or its parts, appurtenances, or system components, **and also provides the following:**

(a) **The licensee may repair or replace non-boiler external piping, as defined by ASME code B31.1 and R 408.4032.**

(b) Before a license is issued, an applicant for a class V license shall ~~give~~ **submit** evidence of **the following:**

(i) ~~fFamiliarity with and knowledge of all federal rules and regulations regarding the construction of a boiler that has a nuclear heat source and shall be employed by a~~

(ii) **Employment by a** company in possession of a valid ASME N-type symbol stamp applicable to the portions of any nuclear boiler system he or she proposes to repair.

(6) A class P license qualifies a person to install or repair non-boiler external piping as defined by ASME code B31.1 **and R 408.4032.**

(7) A licensed boiler repairer shall secure a permit for a change in use of an existing boiler or replacement by mechanical methods, without welding, of sections in sectional boilers, heat exchangers, feed water heater or economizer, and tube bundles in accordance with R 408.4033.

R 408.4171 Removal of used boilers from the state.

Rule 171. (1) If an ASME boiler located in this state is to be moved to another state for temporary use or repairs, application shall be made by the owner ~~or user~~ to the chief inspector for permission to reinstall the boiler in this state **as prescribed in R 408.4177.**

(2) **Repairs conducted outside of this state to boilers that will be reinstalled in this state shall be conducted by an organization in possession of a valid certificate of authorization to repair boilers. The organization shall conduct the repair in accordance with the NBIC and submit all forms required by the NBIC.**

R 408.4186 **Rescinded.**~~Steam cleaners.~~

~~Rule 186. (1) A steam cleaner is subject to all of the provisions of these rules and the act if steam is generated in the coils or any of the following limitations are exceeded:~~

~~(a) A 3/4 inch diameter tube or pipe that does not have drums or heads attached.~~

~~(b) A nominal water containing capacity of 6 gallons.~~

~~(c) A water temperature of 350 degrees Fahrenheit.~~



~~-(d) A Btu input per hour of 800,000.~~

~~-(2) A steam cleaner that does not exceed any of the limitations specified in subrule (1) of this rule is exempt from these rules and the act if equipped with adequate controls and with appropriate ASME safety valves.~~

R 408.4193 Stairways, ladders, platforms, and runways.

Rule 193. ~~(1) If the distance from the floor to the top of a boiler or boiler setting is more than 8 feet, then a permanent stairway or permanently attached inclined or vertical ladder shall be installed to give safe access to, and permit exit from, boiler tops. A permanent platform that provides access to the main stop valve and safety valves of a boiler shall be installed without obstructing the valves. A platform is not required for main stop valves that are operated from a remote location.~~

~~-(2) If the distance from the floor to the top of 2 or more adjacent boilers or boiler settings is more than 8 feet, then a steel runway or platform which is not less than 18 inches wide and which is provided with standard handrails and toeboards on either side shall be installed across the top of adjacent boilers or at some other convenient level to afford safe access to the boiler. A runway shall have not less than 2 means of exit which are remotely located from each other and which are connected to a permanent stairway or inclined ladder leading to the floor level.~~

~~-(3) If the distance from the top of a boiler or boiler setting to the ceiling is less than 6 feet, then special consideration to meet the requirements of this rule will be given by the chief inspector upon receipt of detailed plan information. The chief inspector shall notify the owner or user of his or her decision regarding a request for special consideration and, if denied, shall indicate his or her reasons for the denial.~~

~~-(4) If the low point of a water column is located 15 feet or more above the floor or walkway, then a platform that has a standard toeboard shall be installed.~~

~~(51) A platform shall be installed at 1 end of all drums of a water tube boiler that are more than 4 feet above the floor or walkway to permit safe access to the interior of the drums for cleanout and inspection.~~

~~(6) A boiler shall be provided with platforms at cleanout openings on the side walls that are more than 4 feet above the floor or walkway.~~

~~(72) An inspector shall notify the chief inspector of an owner or user who is required to conform to this rule, and the chief inspector shall give written notice to the owner or user that the installation of the required stairway, runway, platform, or ladder is to be made. The owner or user shall be allowed 1 year from the date of the chief inspector's notification to complete the work.~~

~~(83) A licensee may request a deviation from the requirements of this rule by submitting drawings to the chief inspector for review and approval before installation of the boiler. The licensee will be notified by the chief inspector of the approval or denial of the request.~~

R 408.4195 Exits from boiler rooms.

Rule 195. ~~(1) The owner shall ensure that the exit from a boiler room has complies with the requirements specified in the Michigan building code, R 408.30401 to R 408.30547. not less than 2 egress doorways where the area of the room is more than 500 square feet and the Btu/hour input capacity of the boiler or boilers is more than 400,000 Btu/hour.~~

~~-(2) The owner shall ensure that doorways are separated by a horizontal distance equal to not less than 1/2 of the diagonal dimension of the room. If 2 doorways are required by this rule, then a fixed ladder access out of the room is permitted in place of 1 doorway.~~

~~-(3) An inspector shall notify the chief inspector of an owner or user who is required to comply with subrule (1) of this rule. The chief inspector shall give written notice to the owner or user that the necessary work must be completed within 1 year from the date of notification.~~

R 408.4197 Clearance between boilers and other objects.

Rule 197. (1) A licensee performing an installation shall assure that a minimum clearance of 24 inches is provided between a boiler, its controls, firing equipment, and appurtenances and the building walls and partitions or other boilers or machinery. The licensee shall assure that clearances are in accordance with the manufacturer's instructions where required clearances are greater than the minimum required by this rule. The boiler owner shall assure that the clearances are maintained for the life of the boiler and shall not be infringed upon by items in storage.

**(2) The elevation of a boiler above the floor shall be as specified in the Michigan mechanical code, R 408.30901 to R 408.30998.**

(23) A licensee may request a deviation from the requirements of this rule by submitting drawings to the chief inspector for review and approval before installation of the boiler. The licensee shall be notified by the chief inspector of the approval or denial of the request.

## PART 5. INSERVICE INSPECTION OF BOILERS

R 408.4507 ~~Special~~**Pressure hydrostatic testing.**

Rule 507. **The inspector may require a pressure test to assess leak tightness of the pressure retaining item. Pressure testing methods shall be as described in the NBIC.**~~(1) At the interval specified by this rule, the owner shall ensure that a special hydrostatic test is performed. The owner shall ensure that the test pressure is not less than 80% of the maximum allowable working pressure and is not more than 1 ½ times the maximum allowable working pressure. The test pressure shall be acceptable to the inspector. The owner shall ensure that the water temperature used to apply the hydrostatic test is not less than 70 degrees Fahrenheit and that the maximum metal temperature is not more than 120 degrees Fahrenheit. Hold time for the examination by the inspector shall be the time necessary for the inspector to conduct the examination, but not less than 10 minutes. The inspector may require the owner to expose all longitudinal seams, girth seams, boiler supports, and attachments for inspection. All of the following are required for testing:~~

~~—(a) The owner shall ensure that a test of a riveted boiler is performed at 30 years and every 4 years thereafter. An inspector may require removal of rivets to ascertain their condition.~~

~~—(b) The owner shall ensure that a test of a lap seam boiler which is less than 36 inches in diameter and which operates at 100 psig or less is performed at 20 years and every 4 years thereafter. A lap seam boiler which is more than 36 inches in diameter or which operates at more than 100 psig shall not operate in this state.~~

~~—(c) The owner shall ensure that a test is performed on a welded boiler at 30 years and every 8 years thereafter for boilers on a 1 or 2 year inspection frequency and every 9 years for boilers on a 3 year inspection frequency.~~

~~—(d) The owner shall ensure that a leak test is performed on a mechanically assembled boiler at 30 years and every 8 years thereafter. The hydrostatic pressure shall not exceed the safety/safety relief valve setting. The inspector may require an internal inspection.~~

~~—(e) The owner may request a waiver of the special hydrostatic test required under this rule to the chief inspector if the boiler stated in the request has been granted an extension of the internal inspection frequency under R 408.4058. If a waiver is granted, the review committee established under R 408.4058 shall evaluate the condition of the boiler during each review to determine if a hydrostatic test is necessary.~~

~~—(2) The inspector may require a nondestructive examination for seams or weldments that are inaccessible.~~

## PART 7. BOILER BLOWOFF SYSTEMS

R 408.4701 Design and construction of blowdown vessel reports.

Rule 701. (1) The owner shall ensure that blowdown vessels for use in the state of Michigan are designed and constructed as prescribed by these rules and the ASME boiler and pressure vessel code, section VIII, division 1, entitled “Unfired Pressure Vessels,” ~~2004~~**2007** edition, and its ~~2005~~**2008a** addenda which are adopted by reference in these rules and are available for inspection at the Michigan Department of **Energy**, Labor & Economic Growth, Bureau of Construction Codes, 6546 Mercantile Way, Lansing, Michigan 48911 or from the ASME International, 22 Law Drive, Fairfield, New Jersey 07007, at a cost as of the time of adoption of these amendatory rules of ~~\$495.00~~**\$10.00**. National board of boiler and pressure vessel inspector document NB-27, 2004 edition, may be used as a guide for the design of blowdown tanks.

(2) The owner shall ensure that a blowdown vessel has a minimum allowable working pressure of 50 psig and that the installation complies with these rules and the vessel manufacturer’s instructions.

(a) The blowdown vessel, its fittings, and connections shall be sized so that the internal pressure does not rise more than 5 psig above ambient pressure during the blowdown.

(b) The blowdown vessel shall be provided with adequate openings to facilitate internal cleaning and inspection. An internal inspection of the blowdown vessel shall be conducted during the certificate inspection of the boiler.

(c) The blowdown vessel shall be provided with the following fittings and connection openings in addition to those provided by the manufacturer for the proper installation and operation of the vessel:

(i) A vent connection.

(ii) A drain connection. A drain connection is not required on a separator.

(iii) A thermometer that has a maximum scale reading of 300 degrees Fahrenheit and that is located in the water outlet from the blowdown vessel.

(iv) A pressure gauge that is graduated from 0 to 30 psig and that is attached to the top of the steam space of the blowdown vessel.

(d) The blowdown vessel shall be installed in a location that prevents it and its connected piping from freezing and shall be installed in a manner that permits both internal and external inspection.

(3) A manufacturer shall provide the boiler division of the department, with the manufacturer’s data reports. A data report that is signed by an authorized inspector, together with the ASME code symbol stamp on the vessel, is the record denoting that the blowdown vessel has been constructed in accordance with the ASME code.

(4) The manufacturer shall register all blowdown vessels for use in the state of Michigan with the national board of boiler and pressure vessel inspector.

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**NOTICE OF PUBLIC HEARING**

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DEPARTMENT OF ENERGY, LABOR & ECONOMIC GROWTH  
BUREAU OF CONSTRUCTION CODES  
NOTICE OF PUBLIC HEARING

Michigan Boiler Rules (SOAHR# 2008-001 LG)

**The Department of Energy, Labor & Economic Growth, Bureau of Construction Codes, will hold a public hearing on March 26, 2009, at 9:30 a.m. in Conference Room 3, 2501 Woodlake Circle, Okemos, Michigan 48864. The proposed effective date of the rule set is July 30, 2009.**

The public hearing is to receive public comments on the proposed amendments to the administrative rules. The purposed rules will update the Michigan Boiler Rules to adopt the 2007 editions of the ASME Code and the National Board Inspection Code. The rule updates will allow Michigan to enforce the most current standards to assure that boilers are manufactured, installed, and inspected to the safest standards. The hearing is being conducted by authority conferred on the Director of the Department of Energy, Labor & Economic Growth by Section 4 of 1965 PA 290, Executive Reorganization Order Nos. 1996-2, 2003-1 and 2008-20, MCL 408.754, MCL 445.2001, MCL 445.2011 and MCL 445.2025.

The proposed rules will be published in the February 15, 2009 *Michigan Register*. Copies of the proposed Michigan amendments to the Michigan Boiler Rules may be obtained for a fee of \$3.00 by submitting a check or money order, made payable to the State of Michigan, to the Bureau at the address below. You may download a free copy of the proposed amendments by visiting our website at [www.michigan.gov/bcc](http://www.michigan.gov/bcc). The amendments are located under the What's New section.

Oral or written comments may be presented in person at the hearing on March 26, 2009, or submitted in writing by mail, email, or facsimile no later than 5:00 p.m., March 26, 2009. If your presentation is in written form, please provide a copy to a rules analyst at the conclusion of your testimony.

Department of Energy, Labor & Economic Growth  
Bureau of Construction Codes  
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**Be sure all cellular telephones and pagers are turned off or set to vibrate.**

**The meeting site and parking is accessible. Individuals attending the meeting are requested to refrain from using heavily scented personal care products, in order to enhance accessibility for everyone. People with disabilities requiring additional services (such as materials in alternative format) in order to participate in the meeting should call Tracie Pack at 517-335-2972 (voice) or 517-322-5987 (TTY) at least 14 days prior to the hearing. DELEG is an equal opportunity employer/program.**

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**PROPOSED ADMINISTRATIVE RULES**

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**SOAHR 2008-035**

**DEPARTMENT OF STATE POLICE**

**CRIMINAL RECORDS DIVISION**

**CRIMINAL JUSTICE INFORMATION SYSTEMS**

Filed with the Secretary of State on ~~February 12, 1981.~~

These rules become effective immediately upon filing with the Secretary of State unless adopted under sections 33, 44, or 45a(6) of 1969 PA 306. Rules adopted under these sections become effective 7 days after filing with the Secretary of State.

Draft 1/30/09

(By authority conferred on the ~~law enforcement information network policy Council~~ **Department of State Police** by ~~section 4 of Act No. 163 of the Public Acts of 1974, being 28.214 of the Michigan Compiled Laws~~ **1974 PA 163, MCL 28.214**)

R 28.5001, R 28.5002, R 28.5003, R 28.5004, R 28.5005, R 28.5006, R28.5007, R 28.5008, R 28.5009, R 28.5010, R 28.5011, R 28.5017, R 28.5018, R 28.5102, R 28.5103, R 28.5104, R 28.5105, R 28.5106, R 28.5107, R 28.5108, R 28.5109, R 28.5110, R 28.5111, R 28.5112, R 28.5113, R 28.5114, R 28.5115, R 28.5116, R 28.5117, R 28.5118, R 28.5119, R 28.5120, R 28.5203, R 28.5204, R 28.5205, R 28.5206, R 28.5207, R 28.5210, R 28.5211, R 28.5212, R 28.5213, R 28.5214, R 28.5301, R 28.5302, R 28.5303, R 28.5304, R 28.5305, R 28.5306, R 28.5307, R 28.5308, R 28.5309, R 28.5310, R 28.5311, R 28.5312, R 28.5313, R 28.5314, R 28.5315, R 28.5316, R 28.5317, R 28.5318, R 28.5319, R 28.5403, R 28.5405, R 28.5406, R 28.5407, R 28.5408, R 28.5409, R 28.5410, R 28.5411, R 28.5412, and R 28.5413, of the Michigan Administrative Code are rescinded, and R 28.5101, R 28.5201, R 28.5208, R 28.5209, R 28.5401, R 28.5402, R 28.5404, AND R28,5414 of the Code are amended as follows:

~~DEPARTMENT OF STATE POLICE~~

~~AUTOMATED FINGERPRINT IDENTIFICATION SYSTEM POLICY COUNCIL~~

~~AUTOMATED FINGERPRINT IDENTIFICATION SYSTEM~~

(By authority conferred on the ~~automated fingerprint identification system policy council~~ by ~~section 5 of Act No. 307 of the Public Acts of 1988, being S28.155 of the Michigan Compiled Laws~~)

~~R 28.5001 Definitions. Rescinded.~~

~~Rule 1. As used in these rules:~~

- ~~(a) "Act" means Act No. 307 of the Public Acts of 1988, being S28.151 et seq. of the Michigan Compiled Laws.~~
- ~~(b) "AFIS" means the Michigan automated fingerprint identification system. AFIS is a computerized system for encoding, searching, and matching fingerprints. The system includes the storage and retrieval of fingerprint images.~~
- ~~(c) "AFIS latent print examiner" means an individual whose primary responsibility deals with the detection and identification of latent prints and who has been approved by the AFIS policy council.~~
- ~~(d) "AFIS latent print trainee" means an individual who, under the direct guidance of an AFIS latent print examiner, is being trained to detect and identify latent prints and who has not yet met the minimum standards set forth for an AFIS latent print examiner.~~
- ~~(e) "AFIS latent service" means a computer search of an unidentified latent print against the AFIS data base.~~
- ~~(f) "AFIS tenprint examiner" means an individual who has required fingerprint experience, has successfully completed the AFIS orientation, and has been approved by the AFIS policy council.~~
- ~~(g) "AFIS tenprint technician" means an individual whose primary responsibility deals with the identification of individuals and data base update using AFIS technology who is approved by the AFIS policy council.~~
- ~~(h) "AFIS tenprint trainee" means an individual who has little or no experience in fingerprints and who is being trained to become an AFIS tenprint examiner.~~
- ~~(i) "Agency" means any organization that is authorized to use an AFIS terminal.~~
- ~~(j) "Agency violation" means the unwillingness or inability of the administrative head of an agency to maintain the integrity of the automated fingerprint identification system (AFIS) or to resolve repeated security and privacy violations from within the agency.~~
- ~~(k) "Consortium" means local units of government that are formed for the purpose of purchasing and operating AFIS equipment.~~
- ~~(l) "Consortium board" means the administrative governing body for the consortium which consists of representatives of the members of the consortium.~~
- ~~(m) "Council" means the automated fingerprint identification system policy council.~~
- ~~(n) "Department" means the department of state police.~~
- ~~(o) "Identification record" means a computerized record which is maintained separate from AFIS and which provides names and other demographic data regarding a fingerprinted subject.~~
- ~~(p) "Individual violation" means the access or dissemination of AFIS information by a person which violates AFIS rules or guidelines.~~
- ~~(q) "Latent print" means the fingerprint evidence that is found during an investigation.~~
- ~~(r) "Member of council" means 1 of 21 representatives who is appointed to serve a 2-year term pursuant to the provisions of the act.~~
- ~~(s) "Michigan state police forensic laboratory" means one of several Michigan state police facilities which are located throughout the state and which serve criminal justice agencies in the area of forensic science.~~
- ~~(t) "Noncriminal fingerprints" means fingerprints that are taken other than for the purpose of recording the identification of criminals.~~
- ~~(u) "Tenprint" means a set of rolled fingerprint impressions from both hands of the printed subject.~~
- ~~(v) "Terminal" means any device that is designed to access AFIS.~~

~~R 28.5002—Responsibilities of council, department, department forensic laboratories, and local consortium. Rescinded.~~

~~Rule 2. (1) The council is responsible for establishing policy, guidelines, and administrative procedures to facilitate the implementation and use of AFIS equipment.~~

~~(2) The department is responsible for the operation of the AFIS system within the state and all other interfaces.~~

~~(3) The department's forensic laboratories shall provide AFIS service within their laboratory service areas.~~

~~(4) A local consortium shall provide AFIS service to members of its consortium.~~

~~R 28.5003 AFIS council; meetings; quorum; alternates. Rescinded.~~

~~Rule 3. (1) The council shall meet quarterly in January, April, July, and October and at other times as the chairperson deems necessary.~~

~~(2) A quorum is required to conduct council business.~~

~~(3) A quorum of the council shall be a majority of council members.~~

~~(4) When a member of the council is unable to attend a meeting, he or she shall advise the executive secretary and may designate an alternate. Written designation of the alternate shall be delivered to the executive secretary of the council before the commencement of the meeting. Alternates shall exercise the same voting privilege as that of the absent member.~~

~~(5) A meeting of the council shall be called by the chairperson. Meeting announcements shall be delivered to the business address of each member before the meeting.~~

~~(6) Meetings of the council shall be conducted pursuant to "Roberts' Rules of Order."~~

~~R 28.5004 AFIS council; committees. Rescinded.~~

~~Rule 4. (1) The chairperson shall establish committees of the council and designate chairpersons with the approval of the council.~~

~~(2) Committees shall be comprised of not less than 3 members of the council and others as designated by the committee chairperson.~~

~~(3) Committee reports and meeting minutes shall be submitted to the council in writing.~~

~~R 28.5005 AFIS council; officers; executive secretary; election; removal from office; powers and duties. Rescinded.~~

~~Rule 5. (1) The officers of the council shall consist of a chairperson and a vice chairperson.~~

~~(2) The officers shall be elected by a majority vote of the council. (3) Officers shall be elected at the regular October meeting of the council, shall serve for 1 year, and may succeed themselves.~~

~~(4) The elected officers of the council shall serve at the pleasure of the council and may be removed by an affirmative vote of 2/3 of the council.~~

~~(5) When a vacancy occurs in any office by reason of death, incapacity, resignation, or removal, a special election shall be held to select a council member to complete the unexpired term of the vacated office.~~

~~(6) The chairperson shall be the chief executive officer of the council, shall preside at all meetings, and shall execute instruments for, and on behalf of, the council.~~

~~(7) In the absence of the chairperson, the vice chairperson shall perform the duties of the chairperson.~~

~~(8) An executive secretary shall be appointed by the director of the department, subject to the approval of the council, and shall hold office at the pleasure of the council. The executive secretary shall perform all of the following duties:~~

~~(a) Serve as the council's representative in the day to day administration of the AFIS.~~

~~(b) Prepare all council and committee meeting agendas, give notice of all council and committee meetings, and maintain a written record of the proceedings of such meetings.~~

~~(c) Maintain custody of all documents of the council and provide for their safekeeping.~~

~~(d) Serve as an ex-officio, nonvoting member of all committees of the council.~~

~~R 28.5006 AFIS access; council approval required; prohibitions.~~

**Rescinded.**

~~Rule 6. (1) There shall be no access to the AFIS without the prior approval of the council. Use of the AFIS terminal without an approved AFIS operator is prohibited. Use of the AFIS equipment by unauthorized operators is prohibited. The release of information from AFIS files to unauthorized persons is prohibited. Access to, or dissemination from, the AFIS for personal use or gain is prohibited. Access to, or dissemination from, the AFIS for nonauthorized purposes is prohibited.~~

~~(2) Fingerprint images that are retained on the AFIS are available for the purpose of identification. The deliberate misprioritizing of searches is prohibited. A search of the system for nonauthorized purposes is prohibited.~~

~~(3) The administrative head of an agency that accesses and uses the AFIS is responsible for maintaining the integrity of the system.~~

~~R 28.5007 Terminal installation; application; changes; additions; corrections; processing.~~

**Rescinded.**

~~Rule 7. (1) An application for the installation of a terminal shall be made on a form prescribed by the council and shall be filed with the executive secretary of the council.~~

~~(2) An applicant shall answer all questions on the application truthfully and shall not misrepresent any material fact on the application.~~

~~(3) Changes, additions, or corrections to the original application, including changes in business address or officers, shall be filed with the executive secretary of the council within 10 days after the changes are made.~~

~~(4) When an application for a terminal is received, the executive secretary of the council shall process the application as follows:~~

~~(a) Review for completeness.~~

~~(b) Forward a letter to the applicant agency acknowledging receipt of the application.~~

~~(c) Forward a copy of each application to the council for approval.~~

~~(5) The council shall review all pending applications at regularly scheduled meetings, at which time consideration shall include the following:~~

~~(a) Available state funding.~~

~~(b) The financial commitment of the applicant agency.~~

~~(c) The population of the area that is served by the applicant agency.~~

~~(d) The availability of an approved AFIS terminal operator who is qualified with respect to the service and approved usage of the equipment.~~

~~(e) Impact on the existing capacity, support staff, and work load of the AFIS.~~

~~(f) The applicant can bring forth any other items for consideration.~~

~~R 28.5008 Department and approved terminal responsibilities; agreement. **Rescinded.**~~

~~Rule 8. (1) Upon approval by the council, a signed agreement between the council, the department, and the approved terminal agency shall specify the following:~~

~~(a) That the department shall do all of the following:~~

~~(i) Designate the equipment that is available for purchase.~~

~~(ii) Review the equipment order with the agency and forward the order to the vendor.~~



- ~~(iii) Approve the installation of the equipment.~~
- ~~(iv) Arrange for the installation of communication lines.~~
- ~~(v) Bill the agency for payments due.~~
- ~~(vi) Establish maintenance contracts for equipment that is leased, purchased, or leased-purchased with any portion of state funds.~~
- ~~(b) That the agency shall do all of the following:~~
  - ~~(i) Make payments to the department for all costs as set forth in the agreement.~~
  - ~~(ii) Provide fingerprint services as stated in the agreement.~~
  - ~~(iii) Follow all rules, policies, and procedures established by the council.~~
- ~~(2) The department shall hold title to all equipment where state funding was appropriated for any portion of the equipment that is leased, purchased, or leased-purchased. If an agency defaults on payments to the department or fails to provide services as specified in the agreement, ownership of the equipment shall revert to the department and the subsequent placement of the equipment shall be determined by the council.~~

~~R 28.5009 Terminal environment; location; security. Rescinded.~~

~~Rule 9. An agency shall do all of the following:~~

- ~~(a) Locate the terminal in a safe, clean, and dry environment.~~
- ~~(b) Provide electric service and controlled temperature and humidity levels specified by the terminal manufacturer.~~
- ~~(c) Place the terminal in a secure location which is under the direct control and supervision of authorized personnel of the agency and which is inaccessible to persons who are not qualified or authorized to operate the terminal.~~

~~R 28.5010 Reporting of violations; corrective action. Rescinded.~~

~~Rule 10. (1) All agency and individual violations shall be promptly reported to the executive secretary of the council. The written notice shall include all of the following information:~~

- ~~(a) The nature of the violation.~~
- ~~(b) The agency or operator or administrator who is responsible for the violation.~~
- ~~(c) The place, time, and date of the violation.~~
- ~~(2) Upon notification by the executive secretary, an inquiry of the violation shall be conducted by a committee that is designated by the council.~~
- ~~(3) Corrective measures for violations may include any of the following:~~
  - ~~(a) A letter of reprimand that mandates corrective action.~~
  - ~~(b) Required training or retraining for AFIS administrators, officers, or operators.~~
  - ~~(c) Suspension of an offender from AFIS access.~~
  - ~~(d) Removal of the AFIS terminal.~~
- ~~(4) Any action or corrective measures that are taken by an AFIS user agency shall be reported to the executive secretary of the council in writing.~~

~~R 28.5011 Retention of noncriminal fingerprints. Rescinded.~~

~~Rule 11. (1) Noncriminal fingerprints that are registered on the AFIS are to be distinguished from criminal fingerprint records that are registered on the AFIS.~~

- ~~(2) Noncriminal fingerprints that are retained pursuant to statute, executive order, or promulgated rule will be registered on the AFIS.~~
- ~~(3) Noncriminal fingerprints that are not required to be retained by statute, executive order, or promulgated rule will be registered in AFIS, but will be deleted upon written request to the department.~~

~~(4) If statute, executive order, or a promulgated rule prohibits the retention of noncriminal fingerprints, the fingerprints will not be registered.~~

~~R 28.5017 Image maintenance; training. Rescinded.~~

~~Rule 17. (1) The department shall be responsible for maintaining all image quality on the AFIS.~~

~~(2) The department shall provide training to agencies that are responsible for registration on the AFIS.~~

~~R 28.5018 AFIS audit. Rescinded.~~

~~Rule 18. The department shall prepare an audit plan for approval by the council. The audit plan shall include all of the following:~~

~~(a) Complete reporting.~~

~~(b) Access and use.~~

~~(c) Image quality.~~

~~(d) Synchronization of AFIS records and identification records.~~

## ~~DEPARTMENT OF STATE POLICE~~

### ~~CRIMINAL JUSTICE DATA CENTER~~

#### ~~LAW ENFORCEMENT INFORMATION NETWORK~~

##### ~~PART 1. GENERAL PROVISIONS~~

~~R 28.5101. Definitions; A to C.~~

~~Rule 101. As used in these rules:~~

~~(a) "Act" means Act No. 163 of the Public Acts of 1974, being 28.211 et seq. of the Michigan Compiled Laws, and known as the L.E.I.N. policy Council act of 1974.~~

~~(Ba) "Administration of criminal justice" means the performance of any of the following activities:~~

~~(i) Detection, apprehension, detention, pretrial release, post-trial release, prosecution, adjudication, correctional supervision, or rehabilitation of accused persons or criminal offenders.~~

~~(ii) Identification of criminals.~~

~~(iii) Collection, storage, and dissemination of criminal history record criminal justice information.~~

~~(b) "AFIS" means the automated fingerprint identification system maintained and operated by the department.~~

~~(c) "CJIS Information Security Officer" (ISO) means the person designated to administer the LEIN and NCIC information security program. The CJIS ISO is an employee of the CSA. The CJIS ISO serves as the internal and external point of contact for all information security matters and ensures that each agency having access to the LEIN and NCIC system has a security point of contact.~~

~~(d) "CJIS System Agency" (CSA) means the criminal justice agency that has overall responsibility for the administration and usage of the NCIC within a district, state, territory or federal agency as designated by the Federal Bureau of Investigation. The CJIS System Agency for this state is the department.~~

~~(e) "CJIS System Officer" (CSO) means a member of the CJIS System Agency, selected by the head of the CSA, having the responsibility for monitoring system use, enforcing system discipline and security, and ensuring that all users follow operating procedures.~~

- (f) **“Criminal justice agency”** means a court or other governmental agency, or any subunit thereof, that engages in the administration of criminal justice pursuant to a statute or executive order and that allocates a substantial part of its annual budget for the administration of criminal justice.
- (g) **“Criminal justice information”** means data (electronic or hard copy) collected by criminal justice agencies that is needed for the performance of their legally authorized, required functions.
- (h) **“Criminal justice information systems” (CJIS)** means systems provided by a governmental agency or authorized private entity that store and/or disseminate information used for the administration of criminal justice and public safety.
- (i) **“Department”** means the Michigan department of state police.
- (j) **“Law Enforcement Information Network” (LEIN)** is the communication network that supplies information sharing for Michigan criminal justice agencies, the portal that links to and provides access to various state and national databases and the hot files.
- (k) **“Michigan Criminal Justice Information Network” (MiCJIN)** means the web portal that provides a secure infrastructure with data encryption and single user sign-on and authentication to allow access to a variety of applications.
- (l) **“National crime information center” (NCIC)** means the nationwide, computerized information system established as a service to all criminal justice agencies operated by the CJIS division of the Federal Bureau of Investigation (FBI).
- (m) **“Nonpublic information”** means information to which access, use, or dissemination is restricted by a Law or rule of this state or of the United States.
- (n) **“Other information systems”** are applications, other than LEIN or AFIS, which are accessed through the MiCJIN portal.
- (o) **“Public safety”** means the protection of the general population from all manners of significant danger, injury, damage, or harm.
- (p) **“Public safety agency”** means any entity that has a mission of, or assists with, protecting the public from harm and includes, but is not limited to, police, fire, courts, prosecutors, search and rescue, emergency services, and 911 centers.
- ~~(e) “Agreement” means a contract between the executive agent of the criminal justice data center, the law enforcement information network policy Council, and a terminal or non-terminal user agency or a satellite computer system which identifies the responsibilities of the criminal justice data center, the LEIN Council, and the user agency.~~
- ~~(d) “Bit” means a unit of computer information.~~
- ~~(e) “Computerized criminal history”, known as CCH, means information which is collected on individuals by criminal justice agencies, which is maintained in LEIN and NCIC computer files, and which consists of identifiable descriptions and notations of arrests, detentions, indictments, informations, or other formal criminal charges and any dispositions arising therefrom.~~
- ~~(f) “Convenience terminal” means an additional computer terminal which is installed in a user agency for the convenience of the user, but which is not required to handle an expanded workload in message traffic.~~
- ~~(g) “Criminal history record information”, known as CHRI, means information which is collected on individuals by criminal justice agencies and which consists of identifiable descriptions and notations of arrests, detentions, indictments, informations, or other formal criminal charges and any dispositions arising therefrom, such as sentencing, correctional supervision, or release.~~
- ~~(h) “Criminal history record information system” means a system for the collection, processing, preservation, or dissemination of criminal history record information, including the equipment, facilities, procedures, agreements, and organizations thereof.~~
- ~~(i) “Criminal justice agency” means either of the following:~~

~~(i) A court.~~

~~(ii) A governmental agency, or any subunit thereof, which engages in the administration of criminal justice pursuant to a statute or executive order and which allocates a part of its annual budget for the administration of criminal justice.~~

~~(j) "Criminal justice computer system" means a computer system, communications switcher, or any other device through which LEIN data passes or is processed and which is operated by, and under the exclusive management control of either a criminal justice agency or a governing board where a majority of the board's members represent criminal justice agencies.~~

~~"Criminal justice data center", known as CJDC, means the Michigan data center established by section 5a of Act No. 51 of the Public Acts of the First Extra Session of 1948, as amended, being 18.5a of the Michigan Compiled Laws, state of Michigan Executive Directive 1971-6, and Executive Reorganization Order No. 1972-3.~~

**R 28.5102. Definitions; D to L. Rescinded.**

~~Rule 102. As used in these rules:~~

~~(a) "Direct access" means access to the LEIN through a computer terminal which is either connected directly to the LEIN computer or is connected through a computer terminal which is linked to a satellite computer system.~~

~~(b) "Executive agent, CJDC" means the director of the Michigan state police as established by the state of Michigan Executive Directive 1971-6.~~

~~(c) "Full participation" means that a user agency has access to all LEIN and NCIC data and is authorized, where applicable, to enter, modify, and cancel records in the LEIN and NCIC, either directly or through a servicing terminal agency.~~

~~(d) "High speed terminal" means a computer terminal that transmits data at a rate of 1200 or more bits per second.~~

~~(e) "Indirect access" means access to the LEIN by a non terminal agency which receives service through a terminal agency.~~

~~(f) "Law enforcement information network", known as LEIN, means the Michigan law enforcement computer system and the series of computer terminal locations which allow criminal justice agencies to put in, and have access to, data.~~

~~(g) "LEIN Council" means the Council created by the act to provide for the establishment of policy and the promulgation of rules governing the use of the LEIN.~~

~~(h) "LEIN data" means data that is available either from or through the LEIN computer and includes all of the following:~~

~~(i) Wanted and missing person records.~~

~~(ii) Stolen and missing license plate records.~~

~~(iii) Stolen and wanted vehicle records.~~

~~(iv) Criminal history record information.~~

~~(v) Michigan department of state vehicle registrations and driver records.~~

~~(vi) Vehicle registration and driver records of other states.~~

~~(vii) Provision for an intrastate and interstate message switching service to allow the delivery and receipt of administrative messages which are related to criminal justice matters.~~

~~(i) "Limited participation" means that a user agency shall have only restricted access to certain LEIN and NCIC data, as approved by the Council.~~

**R 28.5103. Definitions; M to O. Rescinded.**

~~Rule 103. As used in these rules:~~

~~(a) "Management control" means the authority to set and enforce all of the following:~~

~~(i) Priorities.~~

~~(ii) Standards for the selection, supervision, and termination of personnel.~~

~~(iii) Policy governing the operation of computers which are used to process criminal history record information insofar as the equipment is used to process, store, or transmit criminal history record information and includes the supervision of equipment, systems design, programming, and operating procedures necessary for the development and implementation of the computerized criminal history program.~~

~~(b) "Microwave data link system" means a microwave system which is maintained by the Michigan state police and which, with Council approval, is interfaced to the LEIN.~~

~~(c) "Mobile digital terminal" means a device which is installed in a vehicle and which has the capability to send digital messages or receive digital messages, or both.~~

~~(d) "National crime information center", known as NCIC, means the nationwide criminal justice data center which is located in Washington, D. C., and which is administered by the U. S. department of justice. The authority for the NCIC program is derived from 28 C.F.R. 534 (1976).~~

~~(e) "National law enforcement telecommunications system", known as NLETS, means a national computerized message delivery system located in Phoenix, Arizona.~~

~~(f) "NCIC advisory policy board" means the board established by 28 C.F.R. 20.25 (1976), to make recommendations to the director of the federal bureau of investigation on general policy with respect to the philosophy, concept, and operational principles of NCIC.~~

~~(g) "NCIC data" means data that are available from the NCIC computer and includes all of the following:~~

~~(i) Wanted and missing person records.~~

~~(ii) Stolen and missing license plate records.~~

~~(iii) Stolen and wanted vehicle records.~~

~~(iv) Stolen gun, security, article, and boat records.~~

~~(v) Criminal history record information.~~

~~(h) "Noncriminal justice computer system" means a computer system, communications switcher, or any other device that is operated by a noncriminal justice agency and through which LEIN or NCIC data pass or are processed.~~

~~(i) "Non-terminal agency" means a criminal justice agency that is authorized to have indirect access to LEIN and its satellite computers through a terminal agency.~~

~~(j) "Originating agency identifier", known as ORI, means a 9 character code which is assigned by LEIN or NCIC, or both, and which is used to identify an agency for message transaction purposes.~~

**R 28.5104. Definitions; P to U. Rescinded.**

**Rule 104. As used in these rules:**

~~(a) "Private person" means an individual, partnership, association, corporation, governmental subdivision, or public or private organization of any kind that does not qualify for access to the LEIN.~~

~~(b) "Regional communications system" means a cooperative effort which is entered into by political subdivisions in a geographic area for the purpose of providing consolidated dispatch services for police, fire, and rescue services.~~

~~(c) "Satellite computer system" means a computer system that is directly interfaced to the LEIN.~~

~~(d) "Self pay agency" means an agency that is authorized by the Council to have direct access to the LEIN through equipment which shall be paid for by the user agency. The equipment may be either of the following:~~

~~(i) A terminal and related communication links which are procured through the CJDC.~~

- ~~(ii) A terminal with related communication links which is connected to an approved satellite computer system which is interfaced to the LEIN.~~
- ~~(e) "Standard LEIN terminal" means a teletype terminal which transmits data at a rate of 100 or less bits per second.~~
- ~~(f) "State funded agency" means an agency that is authorized by the Council to have direct access to LEIN data and services through a state funded, standard LEIN terminal.~~
- ~~(g) "Terminal agency" means either of the following:~~
  - ~~(i) A criminal justice agency in which a LEIN terminal is physically located.~~
  - ~~(ii) An agency that has access to LEIN through a terminal connected to an authorized satellite computer.~~
- ~~(h) "User agency" means an authorized criminal justice agency or any other agency that is authorized to have either direct or indirect access to the LEIN.~~

**R 28.5105. Adoption of federal standards. Rescinded.**

~~Rule 105. The following federal standards are incorporated by reference in these rules:~~

- ~~(a) "Criminal Justice Information Systems", 28 C.F.R. part 20 (1976). Copies of these regulations may be inspected at the offices of the criminal justice data center, department of state police. Copies may be obtained without charge from the Federal Bureau of Investigation, Washington, D. C. 20535, and from the Department of State Police, 714 S. Harrison Road, E. Lansing, Michigan 48823.~~
- ~~(b) NCIC rules and procedures governing the utilization of the federal computerized criminal history programs which are published in a department of justice document entitled, "Computerized Criminal History Program, Background, Concept, and Policy", dated June 14, 1979. This publication may be obtained without charge at the offices of the Criminal Justice Data Center, Department of State Police, 714 S. Harrison Road, E. Lansing, Michigan 48823, or from the National Crime Information Center Section, Federal Bureau of Investigation, Washington, D. C. 20535.~~

**R 28.5106. LEIN Council; meetings; quorum; alternates. Rescinded.**

~~Rule 106. (1) The Council shall meet quarterly, in January, April, July, and October and at other times as the chairman deems necessary.~~

- ~~(2) A quorum is required for the Council business.~~
- ~~(3) A quorum of the Council shall be a majority of Council members.~~
- ~~(4) (1) When a member of the Council is unable to attend a meeting, he or she may, designate a person who is not a member to act as his or her. alternate. Written designation of the alternate shall be delivered to the executive secretary of the Council before the commencement of the meeting. Alternates shall exercise the same voting privileges as that of the absent member,~~
- ~~(5) Meetings of the Council shall be called by the chairman. Meeting announcements shall be mailed to the business address of each member not less than 7 days before the meeting.~~
- ~~(62) Meetings of the Council shall be conducted pursuant to the "Roberts' Rules of Order."~~
- ~~(73) Council meetings shall be conducted in compliance with Act No. 267 of the Public Acts of 1976, as amended, being 15.261 et seq. of the Michigan Compiled Laws, and the open meetings act~~

**R 28.5107. LEIN Council; committees. Rescinded.**

~~Rule 107. (1) The chairman may establish committees of the council, appoint members, and designate chairpersons.~~

- ~~(2) Committees shall be comprised of not less than 3 members of the council.~~
- ~~(3) Committee reports and meeting minutes shall be submitted to the council in writing.~~

~~R 28.5108. LEIN Council; officers; election; removal from office; powers and duties. **Rescinded.**~~

~~Rule 108. (1) The officers of the council shall consist of a chairman vice chairman, and an executive secretary.~~

~~(2) The officers, except the executive secretary, shall be elected by a majority vote of the council.~~

~~(3) The officers shall be elected at the regular July meeting of the Council, shall serve for 1 year, and may succeed themselves.~~

~~(4) The elected officers of the council shall serve at the pleasure of the council and may be removed by an affirmative vote of 2/3 of the council.~~

~~(5) When a vacancy occurs in any office by reason of death, incapacity, resignation, or removal, a special election shall be held to select a council member to complete the unexpired term of the vacated office.~~

~~(6) The chairman shall be the chief executive officer of the council, shall preside at all meetings, and shall execute instruments for, and on behalf of, the council.~~

~~(7) The vice chairman shall, in the absence or disability of the chairman, perform all duties and exercise all powers of the chairman and shall perform such other duties as may be assigned to him or her by the chairman.~~

~~(8) The executive secretary, subject to the recommendation of the Council, shall be appointed by the director of the department of state police, and shall hold office at the pleasure of the council. The executive secretary shall perform all of the following duties:~~

~~(a) Serve as the council's representative in the day to day administration of the LEIN.~~

~~(b) Prepare council meeting agendas, give notice of all meetings of the Council, and maintain a written record of the proceedings of such meetings.~~

~~(c) Maintain custody of all documents of the council and provide for their safekeeping.~~

~~(d) Insure that all policies and rules that are established by Council action are promulgated as required by Act No. 306 of the Public Acts of 1969, as amended, being 24.201 et seq. of the Michigan Compiled Laws, and known as the administrative procedures act of 1969.~~

~~(e) Serve as an ex-officio, non-voting member of all committees of the Council.~~

~~R 28.5109. ORI assignment and construction for Michigan law enforcement agencies. **Rescinded.**~~

~~Rule 109. (1) A user agency that has access to the LEIN shall be assigned an ORI.~~

~~(2) State police, sheriff department, and local law enforcement agency ORIs shall be constructed as follows:~~

~~(a) The first 2 characters shall be the abbreviation for the state. Each state shall have a 2-character alphabetic code identification. For example, Michigan's code is MI.~~

~~(b) The third and fourth characters shall be a 2-digit number identifying the county. These digits are derived from listing the 83 counties of Michigan alphabetically from Alcona to Wexford, then numbering them consecutively.~~

~~(c) The fifth, sixth, and seventh characters shall be a 3-digit number identifying a specific jurisdiction within a county and indicating the type of law enforcement agency, as follows:~~

~~(i) State police agencies.....001 to 099.~~

~~(ii) Sheriff departments.....101 to 183.~~

~~(iii) Municipal, township, or other police departments...200 to 999.~~

~~(d) The eighth and ninth characters shall be used to explicitly identify internal divisions, units, or subunits within larger departments which have multiple terminals. The eighth character may be a letter or a number. The ninth character shall be a number.~~

R 28.5110. ~~ORI assignment and construction for other Michigan criminal justice agencies and regional communication systems.~~ **Rescinded.**

~~Rule 110. ORIs shall be assigned to authorized Michigan courts, prosecuting attorneys, parole and probation agencies, correctional institutions, pretrial service agencies, and regional communications systems. These ORIs shall be constructed as follows:~~

- ~~(a) The first 2 characters shall be the abbreviation for the state.~~
- ~~(b) The third and fourth characters shall identify the county.~~
- ~~(c) The fifth, sixth, and seventh characters shall identify a specific agency within the county.~~
- ~~(d) The eighth character shall identify the governmental level of the agency, as follows:~~
  - ~~(i) A local or municipal agency is 1.~~
  - ~~(ii) A county agency is 3.~~
  - ~~(iii) A state agency is 5.~~
  - ~~(iv) A federal agency is 7.~~
- ~~(e) The ninth character shall identify the type of agency, as follows:~~
  - ~~(i) A prosecuting, district, or city attorney or the attorney general is A.~~
  - ~~(ii) A pretrial service agency is B.~~
  - ~~(iii) A correctional institution, including a jail, prison, detention or treatment center, or halfway house, is C.~~
  - ~~(iv) A probation or parole agency is G.~~
  - ~~(v) A court is J.~~
  - ~~(vi) A medical examiner, coroner, or custodial facility in a medical or psychiatric institution is M.~~
  - ~~(vii) A regional communication system is N.~~
  - ~~(viii) A miscellaneous agency that is statutorily classified as a criminal justice agency is Y.~~

R 28.5111. ~~LEIN ORI assignments; criteria.~~ **Rescinded.**

~~Rule 111. (1) To qualify for a LEIN ORI assignment, an agency shall meet both of the following criteria:~~

- ~~(a) The agency shall be a governmental agency.~~
- ~~(b) The agency shall qualify as a criminal justice agency, as defined in R 28.5101.~~
- ~~(2) A nongovernmental agency may qualify for a LEIN ORI assignment if it meets both of the following criteria:~~
  - ~~(a) The agency is statutorily vested with arrest powers.~~
  - ~~(b) The agency is engaged primarily in the administration of criminal justice.~~

R 28.5112. ~~NCIC ORI assignment; criteria.~~ **Rescinded.**

~~Rule 112. (1) To qualify for an NCIC ORI assignment, an agency shall meet both of the following criteria:~~

- ~~(a) The agency shall be a governmental agency.~~
- ~~(b) The agency shall qualify as a criminal justice agency as defined in R 28.5101.~~



~~(2) An agency that does not meet the qualifications of a criminal justice agency may qualify for a NCIC ORI assignment if it meets the definition of an agency under the management control of a criminal justice agency.~~

R 28.5113. ~~NCIC ORI assignment; unqualified agencies.~~ **Rescinded.**

~~Rule 113. The following agencies do not qualify for an ORI assignment:~~

~~(a) A court that hears civil cases only.~~

~~(b) A correctional facility that houses only juveniles who are orphaned or declared incorrigible but who are not involved in the criminal justice process.~~

~~(c) Private school police.~~

~~(d) Railroad police.~~

R 28.5114. ~~ORI assignment; request for issuance.~~ **Rescinded.**

~~Rule 114. A request for the issuance of an ORI assignment shall be made on a form provided by the Council and shall be accompanied by the statute, executive order, or other documentation which establishes the agency as a criminal justice agency or an agency under the management control of a criminal justice agency. Forms are available from the Executive Secretary, LEIN Policy Council, 714 S. Harrison Road, E. Lansing, Michigan 48823.~~

R 28.5115. ~~ORI assignment and maintenance; responsibility.~~ **Rescinded.**

~~Rule 115. The executive secretary of the Council is responsible for assigning ORI numbers to all authorized agencies and shall maintain records of all assignments, additions, deletions, or corrections to ORI numbers.~~

R 28.5116. ~~LEIN or NCIC entries; use of ORIs required.~~ **Rescinded.**

~~Rule 116. A user agency shall use its assigned ORI on all records entered into the LEIN or NCIC.~~

R 28.5117. ~~Cities and townships; ORI assignment.~~ **Rescinded.**

~~Rule 117. A city or township that requires an elected or appointed constable to perform both statutory criminal and civil duties is eligible for an ORI assignment if the constable satisfies all of the following criteria:~~

~~(a) Complies with the minimum employment standards as established by the law enforcement training Council pursuant to section 9 of Act No. 203 of the Public Acts of 1965, as amended, being 28.609 of the Michigan Compiled Laws.~~

~~(b) Has unrestricted arrest powers of a peace officer as defined in section 15 of Act No. 84 of the Public Acts of 1935, as amended, being 764.15 of the Michigan Compiled Laws.~~

~~(c) Is employed by the city or township as a full time peace officer.~~

R 28.5118. ~~Public hearings; applicable law.~~ **Rescinded.**

~~Rule 118. Public hearings conducted by the LEIN Council pursuant to the act shall be in accordance with and subject to Act No. 306 of the Public Acts of 1969, as amended, being 24.201 et seq. of the Michigan Compiled Laws.~~

R 28.5119. ~~Contested cases; applicable law.~~ **Rescinded.**

~~Rule 119. LEIN Council administrative procedures in contested cases and judicial review shall be in accordance with and subject to sections 71 to 87 and 101 to 106 of Act No. 306 of the Public Acts of 1969, as amended, being 24.271 to 24.287 and 24.301 to 24.306 of the Michigan Compiled Laws.~~

R 28.5120. ~~Special programming requests from a user agency.~~ **Rescinded.**

~~Rule 120. A request received by the CJDC from a user agency for special programming or other special work which is of benefit only to the requester shall be processed as follows:~~

~~(a) The request shall be submitted in writing to the executive secretary of the LEIN Council and shall include all of the following information:~~

~~(i) A description of the special programming or work desired.~~

~~(ii) The purpose or reason for the request.~~

~~(iii) When the special programming or other work is needed.~~

~~(b) When a request is received, the executive secretary shall forward a letter to the user agency acknowledging receipt thereof.~~

~~(c) The executive secretary shall determine if the request requires LEIN Council approval. If so, he or she shall forward the request to the appropriate committee of the LEIN Council for review. The committee shall determine if there are any budgetary requirements and shall recommend approval or disapproval to the LEIN Council.~~

~~(d) If the request is approved by the LEIN Council, the executive secretary shall notify the user agency in writing.~~

~~(e) A request from a user agency for special programming or special work that does not require LEIN Council review and approval shall be forwarded to the director of the CJDC by the executive secretary for further processing.~~

## **PART 2. ACCESS, ELIGIBILITY, AND DATA DISSEMINATION PROVISIONS**

R 28.5201. ~~CJIS~~**LEIN** access.~~authorized agencies.~~

**Rule 201. Access to LEIN, AFIS, and other information systems shall be restricted to the following entities and persons agencies:**

**(a) A criminal justice agency.**

**(b) A nongovernmental agency that is statutorily vested with arrest powers and whose primary function is the administration of criminal justice.**

**(c) A regional or local organization which is established pursuant to a statute, ordinance, resolution, or executive order, which has as its primary function the collecting and processing of criminal justice information, and whose governing board has, as a majority of its members, persons who represent criminal justice agencies. A governmental agency with the administration of criminal justice as its primary function and whose governing board has criminal justice agencies as the majority of its members.**

- ~~(d) A governmental agency that maintains vehicle registration and driver records as 1 of its primary functions.—The department of state.~~
- ~~(e) An agency authorized by statute.~~
- ~~(f) An agency, entity, or person approved by the CSA/CSO for public safety purposes.~~
- ~~(2) To qualify for access and use of LEIN, AFIS, and other information systems, an authorized agency, entity, or person shall do all the following:~~
  - ~~(a) Complete an application and user agreement as required by the department.~~
  - ~~(b) Submit a security plan to the ISO as required by the department.~~
  - ~~(c) Participate in audits as required by the department.~~
  - ~~(d) Complete a management control agreement as required by the department~~
  - ~~(e) Agree to comply with state and federal statutes, the administrative rules, the Michigan and Federal CJIS security policies and the procedures outlined in the LEIN operations manual.~~
- ~~(3) Agencies shall notify the department in writing before any changes affecting access to LEIN, AFIS, or other information systems.~~

R 28.5202. NCIC access; authorized agencies.

Rule 202. Access to NCIC shall be restricted to agencies approved by the appropriate federal agency and the CSA/CSO. data shall be restricted to the following agencies:

- ~~(a) A criminal justice agency.~~
- ~~(b) Agencies at all government levels that have, as a principal function, the collection and provision of fingerprint identification information.~~
- ~~(c) A regional or local organization which is established pursuant to a statute, ordinance, resolution, or executive order, which has as its primary function the collecting and processing of criminal justice information, and whose governing board has, as a majority of its members, persons who represent criminal justice agencies.~~
- ~~(d) A government agency that maintains vehicle registration and driver records as 1 of its primary functions.~~

R 28.5203. Criminal Justice Agency; participation in LEIN and NCIC; criteria. **Rescinded.**

Rule 203. ~~(1) A criminal justice agency may qualify for either full or limited participation in the LEIN and NCIC.~~

- ~~(2) To qualify for full participation in the LEIN and NCIC systems, a criminal justice agency shall comply with all of the following:~~
  - ~~(a) Complete an agreement with the executive agent, CJDC, and the LEIN policy Council.~~
  - ~~(b) Insure that computers, terminals, other related equipment that is used to gain access to these systems, and all personnel either operating or having access to such equipment are under the management control of either of the following:~~
    - ~~(i) A criminal justice agency administrator.~~
    - ~~(ii) A governing board that is established by a statute, ordinance, resolution, or executive order. The majority of the governing board's membership shall be representatives of criminal justice agencies.~~
  - ~~(c) Establish procedures to insure that, upon inquiry, all records that are entered into either the LEIN or NCIC files can be promptly confirmed as valid. A terminal agency shall either maintain a 24 hours a day, 7 days a week operation or shall establish an alternative records verification procedure. This verification procedure shall require Council approval before implementation.~~

~~(3) In addition to the requirements of subrule (2) of this rule, a law enforcement agency shall meet both of the following criteria:~~

~~(a) Be vested with the power of arrest as defined in Act No. 175 of the Public Acts of 1927, as amended, being 764.15 et seq. of the Michigan Compiled Laws.~~

~~(b) A local, county, or state law enforcement agency shall establish an interim bond procedure as outlined in Act No. 157 of the Public Acts of 1970, as amended, being 780.581 et seq. of the Michigan Compiled Laws.~~

R 28.5204. ~~Regional communications systems; participation in LEIN and NCIC; criteria.~~ **Rescinded.**

~~Rule 204. (1) To qualify for participation in the LEIN and NCIC systems, a regional communications system shall comply with all of the following:~~

~~(a) Complete an agreement with the executive agent, CJDC, and the LEIN policy Council.~~

~~(b) Insure that computers, terminals, other related equipment that is used to gain access to these systems, and all personnel either operating or having access to such equipment are under the management control of either of the following:~~

~~(i) A criminal justice agency administrator.~~

~~(ii) A governing board that is established by a statute, ordinance, resolution, or executive order. The majority of the governing board's membership shall be representatives of criminal justice agencies.~~

~~(c) Establish procedures to insure that, upon inquiry, all records entered into either the LEIN or NCIC files can be promptly confirmed as valid. A regional communications system shall either maintain a 24-hours a day, 7 days a week operation or shall establish an alternative records verification procedure. The verification procedure shall require Council approval before implementation.~~

~~(2) Unless specifically approved by the Council, regional communications systems shall not be authorized to have access to either computerized or manually maintained criminal history record information.~~

R 28.5205. ~~Nongovernment agency; limited participation in LEIN; criteria.~~ **Rescinded.**

~~Rule 205. To qualify for limited participation in the LEIN, a nongovernment agency shall comply with all of the following:~~

~~(a) Be statutorily vested with the powers of arrest and have, as its primary function, the administration of criminal justice.~~

~~(b) Complete an agreement with the executive agent, CJDC, and the LEIN policy Council.~~

~~(c) Insure that computers, terminals, and other related equipment that is used to gain access to LEIN files are under the management control of the user agency administrator.~~

~~(d) Establish procedures to insure that, upon inquiry, all records entered into the LEIN can be promptly confirmed as valid. A terminal agency shall either maintain a 24 hours a day, 7 days a week operation or shall establish an alternative records verification procedure. The verification procedure shall require Council approval before implementation.~~

R 28.5206. ~~Criminal justice agency serviced through a noncriminal justice computer system; participating in LEIN; criteria.~~ **Rescinded.**

~~Rule 206. To qualify to participate in the LEIN, a criminal justice agency that is serviced by a noncriminal justice computer system shall comply with both of the following requirements:~~

- ~~(a) Exercise management control over the operation of all hardware at the noncriminal justice computer center which is used to process, store, or forward either LEIN or NCIC data.~~
- ~~(b) Complete a written agreement with the noncriminal justice agency that operates the computer center. The agreement shall give the criminal justice agency all of the following rights and powers:~~
  - ~~(i) A guarantee that the criminal justice agency network shall receive the highest priority in the areas of maintenance, support, and assignment of personnel and hardware resources.~~
  - ~~(ii) The right to final approval in the selection of all software used to communicate with the LEIN.~~
  - ~~(iii) The right to approve all employees who will have access to hardware which connects to the LEIN.~~
  - ~~(iv) The authority to make any necessary audits to insure system security.~~
  - ~~(v) The authority to review management output records to ensure that the criminal justice agency's guaranteed priority agreement is being honored.~~

**R 28.5207. Agencies participating in LEIN; change in status. Rescinded.**

~~Rule 207. The Council shall be notified in writing in advance of any proposed changes in the status of an agency participating, or approved for participation, in the LEIN. Continued participation in the LEIN is subject to review of the new status by the Council to determine if all eligibility requirements are met. Changes in status include, but are not limited to, all of the following situations:~~

- ~~(a) A single jurisdiction LEIN user planning to join a regional communications system.~~
- ~~(b) A change in the management structure of a criminal justice computer system or a regional communications system.~~
- ~~(c) A change in the management structure of a noncriminal justice computer system or data center which services criminal justice agencies.~~
- ~~(d) A noncriminal justice computer system or data center planning to discontinue or alter service to a criminal justice agency.~~

**R 28.5208. LEIN, AFIS, and other information systems; data use and dissemination.**

**Rule 208. (1) Criminal justice agencies who create, store, or maintain criminal justice information are considered the owners of those records and maintain all the rights and responsibilities of ownership of those records.**

**(2) Agencies who access LEIN, AFIS, or other information systems shall comply with these rules.**

**(3) LEIN, AFIS, or other information systems shall only be used for the administration of criminal justice or public safety purposes.**

**(4) Except as permitted outlined in R-28.5210 and R-28.5211 R-28.5209, data received through the LEIN these rules or if authorized by statute, information from LEIN, AFIS, or other information systems shall not be disseminated to an unauthorized agency, entity, or person. shall only be disseminated to . criminal justice agency or an agency that is statutorily authorized to have access to such data.**

**(2) Data, either computerized or manually processed, that are received by a user agency through the LEIN shall be used for criminal justice purposes only. This includes data received from any of the following systems:**

- (a) The LEIN.**
- (b) The NCIC.**
- (c) The Michigan department of state.**
- (d) The national law enforcement telecommunications system.**

~~(e) Any other agency or system from which information is received and forwarded to a user agency through the LEIN.~~

**(5) A person shall not access, use, or disclose information from LEIN, AFIS, or other information systems for personal use or gain. The LEIN, or information received through the LEIN, shall not be used for personal reasons.**

~~(6) A user agency shall not sell or disseminate any information obtained through the LEIN to any individual, group of individuals, organization, governmental agency, or corporation which is not legally authorized to have access to this information. The CSA/CSO may limit or terminate access to LEIN, AFIS, or other information systems for failure to cooperate with a request for investigation of misuse of LEIN, AFIS, or other information systems.~~

**(7) Nonpublic information may be released for public safety purposes consistent with these rules and applicable laws.**

R 28.5209. ~~LEIN Audit information; data dissemination.; CJDC release to user agency.~~

~~Rule 209. Except as prescribed in subrule (2) of this rule, a user agency's message transactions into, through, or from the LEIN shall not be released by the CJDC to another user agency without the written consent of the administrative head of the agency whose message transactions are being requested.~~

~~(12) The CJDC may release a user agency's message transactions to another agency~~ **A user agency's message transactions may be released to another agency** under any of the following conditions:

~~(a) Upon written request from a local, county, state, or federal prosecuting attorney who shall specify that the information required is for a valid criminal justice purpose.~~

~~(b) A court order.~~ **A search warrant or subpoena authorized by a judge.**

~~(c) A request made under Act No. 442 of the Public Acts of 1976, as amended, being 15.231 et seq. of the Michigan Compiled Laws, and known as the freedom of information act. The CJDC or the executive secretary of the Council shall notify the administrative head of a user agency when that agency's message transactions have been released to a private person as a result of a request made under this act. Upon approval of the agency which initiated the messages.~~

~~(d) The CSO may release audit information to facilitate investigations of misuse.~~

**(2) A user agency's message transactions may be released for noncriminal justice purposes if either of the following conditions is satisfied:**

**(a) The records are essential to issues raised in an administrative hearing related to the misuse of LEIN, AFIS, or other information systems.**

**(b) The records are essential information in a civil action to demonstrate the accuracy of LEIN, AFIS, or other information systems, and the records are sought pursuant to a valid court order.**

**(c) In either subdivision (a) or (b) of this subrule, the person requesting the information must agree to limit dissemination of information from LEIN, AFIS, or other information systems for the purposes of the hearing or civil action.**

R 28.5210. ~~Criminal history record information: user agency dissemination to private person prohibited; request from private person to review information; obtaining information by private person. Rescinded.~~

~~Rule 210. (1) A user agency shall not disseminate criminal history record information received through the LEIN to a private person.~~

~~(2) A private person, upon request, satisfactory verification of his or her identity by fingerprint comparison, and payment of any required processing fee, may review the criminal history record~~

~~maintained about him or her in the files of the Central Records Division, Department of State Police, 7150 Harris Drive, Lansing, Michigan 48913.~~

~~(3) To obtain criminal history record information, a private person may appear at a user agency and request that his or her fingerprints be taken on an applicant or noncriminal fingerprint card. The user agency shall return the card to the private person who may then forward the fingerprint card and a letter of request to the central records division of the department of state police. The central records division of the department of state police shall search its files and shall mail the criminal history record information and fingerprints to the person making the request.~~

R 28.5211. ~~Warrant or stolen property information; receipt of verbal information by a private person; request for written information by a private person.~~ **Rescinded.**

~~Rule 211. (1) A private person may receive verbal information as to whether or not a warrant ordering his or her arrest has been issued by a court and entered into either LEIN or NCIC files, if he or she appears in person at a law enforcement user agency and is properly identified.~~

~~(2) A private person may receive verbal information as to whether or not a vehicle, a vehicle part, or other stolen property has been entered into either LEIN or NCIC files, if he or she appears at a law enforcement user agency, is properly identified, and satisfactorily explains to the user agency the purpose or need for the information.~~

~~(3) If a private person requests a terminal prepared or other printed or written record of the information, he or she may be referred to the court that issued the warrant or, in the case of a stolen vehicle, vehicle part, or other stolen property, to the user agency that is responsible for the original entry into either the LEIN or NCIC files.~~

R 28.5212. ~~LEIN access; non-terminal user agency.~~ **Rescinded.**

~~Rule 212. (1) A user agency that accepts the installation of a LEIN terminal which is either partially or fully funded by state allocated funds shall agree to provide LEIN access to an authorized non-terminal user agency which is assigned to it by the CJDC. When an assignment for service is to be made, the CJDC shall consider all of the following factors:~~

~~(a) Radio frequency compatibility between the involved agencies.~~

~~(b) Geographical location of the terminal and non-terminal agencies.~~

~~(c) Ability of the terminal agency to provide normal services to a non-terminal agency based on reasonable requests from the non-terminal agency.~~

~~(2) A terminal agency shall provide all of the following services to an authorized non-terminal agency:~~

~~(a) Entry, inquiry, modification, or cancellation services for wanted and missing persons records, stolen and wanted vehicles, and stolen property records.~~

~~(b) Inquiry service to computerized or manually stored criminal history record information which is maintained in either the Michigan department of state police files or in similar files in other local, state, or federal agencies.~~

~~(c) Inquiry service to computerized or manually stored vehicle registration and driver records which are maintained in either the Michigan department of state files or in similar files in other states.~~

~~(d) Intrastate and interstate administrative message service.~~

~~(e) Any other LEIN services which are or may become available and which are authorized by the Council.~~

~~(3) A terminal agency shall not charge a non-terminal agency any fees for LEIN access without the approval of the Council.~~

R 28.5213. ~~LEIN use by user agency authorized to examine applicants for operator and chauffeur licenses.~~ **Rescinded.**

~~Rule 213. A user agency that is authorized to conduct examinations of applicants for operator and chauffeur licenses, as prescribed in section 309 of Act No. 300 of the Public Acts of 1949, as amended, being 257.309 of the Michigan Compiled Laws, may use the LEIN to gain access to the secretary of state's driver files for record clearance purposes if such use does not impede or interfere with the ability of the LEIN to adequately serve the needs of the law enforcement community.~~

R 28.5214. ~~Criminal history record information; dissemination by radio devices prohibited.~~ **Rescinded.**

~~Rule 214. Radio devices, whether digital or voice, shall not be used to transmit criminal history record information beyond~~

~~that information which is necessary to effect an immediate identification to insure adequate safety for a law enforcement officer or the general public where such information was originally transmitted over the LEIN to a radio broadcasting device or location.~~

### **~~PART 3. TERMINALS AND EQUIPMENT~~**

R 28.5301. ~~LEIN access; terminal or computer system; Council approval.~~ **Rescinded.**

~~Rule 301. A terminal or computer system shall not have direct access to the LEIN without the prior approval of the Council.~~

R 28.5302. ~~Terminal installation; application; changes, additions, or corrections; processing.~~ **Rescinded.**

~~Rule 302. (1) An application for the installation of a terminal shall be made on a form prescribed by the Council and shall be filed with the executive secretary of the Council. The application shall indicate if the request is for a state funded or self-pay terminal.~~

~~(2) An applicant shall answer all questions on the application~~

~~truthfully and shall not misrepresent any material fact on the application.~~

~~(3) Changes, additions, or corrections to the original application, including, but not limited to, changes in business address or officers shall be filed with the executive secretary of the Council within 10 days after the changes are made.~~

~~(4) When an application for a terminal is received, the executive secretary of the Council shall process the application as follows:~~

~~(a) Review for completeness and chronologically number each application received.~~

~~(b) Forward a letter to the applicant agency acknowledging receipt of the application.~~

~~(c) Forward a copy of each application to the Council for review and approval or disapproval.~~

~~(5) The Council shall review all pending applications not less than 4 times yearly.~~

R 28.5303. ~~State funded terminal installation application; Council review.~~ **Rescinded.**



~~Rule 303. An application for the installation of a state-funded terminal shall be reviewed by the Council on a comparative basis with other such applications and consideration shall be given to each of the following factors:~~

- ~~(a) The population of the area served by the applicant agency.~~
- ~~(b) The number of patrol units that will be serviced by the terminal if the applicant agency is a law enforcement agency.~~
- ~~(c) The applicant agency's workload requiring LEIN data and services.~~
- ~~(d) The number of records entered or to be entered in LEIN and NCIC files.~~
- ~~(e) The geographical location of the applicant agency.~~
- ~~(f) The current accessibility to the LEIN.~~
- ~~(g) The compatibility in radio frequencies between the involved agencies.~~
- ~~(h) The emergency needs of the applicant agency.~~

R 28.5304. Self-pay terminal installation application; Council review; approval. **Rescinded.**

~~Rule 304. (1) An application for the installation of a self-pay terminal shall be individually reviewed by the Council and shall not be compared with pending applications for state-funded terminals.~~

~~(2) The Council may approve a terminal installation for a self-pay agency if both of the following criteria are met:~~

- ~~(a) The CJDC has sufficient computer equipment to provide satisfactory LEIN data and service.~~
- ~~(b) Installation does not reduce the ability of the CJDC to furnish adequate service to existing LEIN terminal agencies. **Rescinded.**~~

R 28.5305. State funding of terminal installations generally. **Rescinded.**

~~Rule 305. (1) The Council shall approve the installation of a LEIN terminal, consistent with the availability of state funds, if the applicant agency meets the minimum criteria as established by the Council.~~

~~(2) The Council shall periodically review and audit the operation of a LEIN terminal agency and may remove state funding support when the established minimum criteria are not met.~~

~~(3) A self-pay agency shall be considered for state funding when new or additional state funds are allocated for LEIN terminals if both of the following criteria are met:~~

- ~~(a) The self-pay agency meets the minimum criteria as established by the Council.~~
- ~~(b) The relative ranking of the self-pay agency in respect to other self-pay agencies warrants removal of the self-pay status.~~

~~(4) LEIN terminals that are installed in Michigan department of state facilities shall be state-funded consistent with the availability of state funds.~~

R 28.5306. Federal criminal justice agency; access to LEIN data; criteria. **Rescinded.**

~~Rule 306. A federal criminal justice agency shall be authorized to have direct access to LEIN data if such agency complies with both of the following criteria:~~

- ~~(a) The agency pays the costs for the terminal, its installation, and related communications links.~~
- ~~(b) The agency executes an agreement with the executive agent, CJDC, and the Council.~~

**R 28.5307. State-funded agency; terminal upgrading. Rescinded.**

~~Rule 307. (1) A state-funded agency may upgrade its standard LEIN terminal to a high-speed terminal. The high-speed terminal shall be procured through the CJDC.~~

~~(2) The maximum amount of state funds that may be credited toward the upgrading of terminal equipment shall not exceed the average cost of a standard LEIN terminal and its related communication links.~~

**R 28.5308. State-funded agency; return of state-funded terminal equipment; credit. Rescinded.**

~~Rule 308. A state-funded agency which upgrades its LEIN data access either through its own or a shared noncriminal justice computer and which returns its state-funded terminal equipment may be credited with either of the following:~~

~~(a) The average cost of a standard LEIN terminal and its related communication links.~~

~~(b) The line costs to interface the satellite computer system to the LEIN.~~

**R 28.5309. CJDC responsibilities to a state-funded agency. Rescinded.**

~~Rule 309. The CJDC, with respect to a state-funded agency and contingent upon the availability of state funds appropriated for such purposes, shall do all of the following:~~

~~(a) Place all orders for the installation, relocation, or removal of terminals, communication links, and other related equipment.~~

~~(b) Make all technical service arrangements that are related to the installation, maintenance, relocation, and removal of equipment.~~

~~(c) Perform the system analysis, design, and programming which is required at the CJDC.~~

~~(d) Provide a standard terminal and related communications equipment.~~

~~(e) Provide the necessary computers and related resources at the CJDC to insure access to the LEIN.~~

**R 28.5310. CJDC responsibilities to a self-pay agency. Rescinded.**

~~Rule 310. (1) The CJDC shall provide a self-pay agency which uses terminal and related communications equipment which is procured through the CJDC with the same access to the LEIN as is provided to a state-funded agency.~~

~~(2) If a self-pay agency elects to obtain its own equipment which is not identical to equipment offered through the CJDC, the CJDC responsibilities shall be limited to all of the following:~~

~~(a) Providing technical information as to the communications disciplines and message structures which are required for successful interface to the LEIN.~~

~~(b) Providing access to the LEIN in the same manner and format as is provided to a state-funded user agency.~~

~~(c) Placing orders for the installation, relocation, or removal of communications lines and other related communications equipment.~~

~~(d) Performing required programming at the CJDC which is identical to that provided to state-funded participant agencies.~~

~~(e) Providing the necessary computers and related equipment at the CJDC to insure access to LEIN data and services.~~

~~(f) Providing reference manuals, publications, and bulletins in the identical language and formats are furnished to a state-funded agency.~~

~~(g) Correcting those problems which are determined to be related to the CJDC or to related communication links. The CJDC is not responsible for the correction of any problem that is associated with the user agency's equipment.~~

~~(3) The CJDC shall not provide training to user agencies in the operation of equipment which differs from equipment procured through the CJDC.~~

**R 28.5311. Self-pay user agency; responsibilities. Rescinded.**

~~Rule 311. (1) A self pay user agency is responsible for the procurement of, and payment for, all consumable supplies which are required for the terminal or computer, or both.~~

~~(2) A self pay agency which uses equipment that is not identical to equipment offered through the CJDC is responsible for all of the following:~~

~~(a) Compliance with the data transmission rates and communication disciplines established by the CJDC.~~

~~(b) Payment of the cost of the communication line link to the CJDC.~~

~~(c) Payment of the cost of connecting the communication line to the transmission control unit at the CJDC.~~

~~(d) Providing for the training of personnel in the use of terminal equipment.~~

~~(e) Insuring that the user agency's system will provide access to all authorized data as performed on state funded terminals.~~

~~(f) Payment of the costs for reprogramming or equipment modifications, or both, which become necessary as a result of changes made at the CJDC.~~

**R 28.5312. Non-law enforcement criminal justice agency; terminal installation; criteria for Council approval. Rescinded.**

~~Rule 312. The installation of a terminal in a non-law enforcement criminal justice agency shall be approved by the Council if all of the following criteria are met:~~

~~(a) The applicant agency pays the installation, terminal leasing, and communication equipment costs.~~

~~(b) The installation does not reduce the ability of the LEIN to provide satisfactory service to law enforcement agencies.~~

~~(c) The applicant agency executes an agreement with the executive agent, CJDC, and the Council.~~

**R 28.5313. Emergency terminal installation. Rescinded.**

~~Rule 313. (1) The commanding officer of the operations division of the Michigan state police or the director of the CJDC may order the installation of a terminal under emergency circumstances.~~

~~(2) If a terminal is installed for emergency purposes, the chairman of the LEIN Council shall be immediately notified by the CJDC.~~

~~(3) The emergency installation of a terminal is subject to the subsequent review and approval of the Council.~~

**R 28.5314. Convenience terminals; payment of installation costs. Rescinded.**

~~Rule 314. All costs associated with the installation of a convenience terminal, including the costs for leasing a terminal and the communications link, shall be paid by the applicant agency.~~

R 28.5315. ~~Microwave data links; interface to LEIN; serviced terminals; Council approval.~~ **Rescinded.**  
Rule 315. (1) ~~Each microwave data link system interface to the LEIN shall be approved by the Council.~~  
(2) ~~A terminal that is serviced through the microwave data link system shall be approved by the Council.~~

R 28.5316. ~~State microwave link to LEIN; written request; criteria for approval.~~ **Rescinded.**  
Rule 316. (1) ~~A user agency that wishes to have direct access to the LEIN through a state microwave link shall submit a written request to the Council which shall include all of the following information:~~  
(a) ~~Details of the agency plan for use of the microwave link.~~  
(b) ~~The type of terminal, computer, and other related equipment which the agency plans to use.~~  
(c) ~~Information as to whether the interface request is for state funding support or is on a self-pay basis.~~  
(2) ~~The Council may approve a request from an agency for a microwave interface to the LEIN if all of the following criteria are met:~~  
(a) ~~The applicant agency is geographically located within the area that is serviced by existing state microwave equipment.~~  
(b) ~~A channel on the state microwave system is available for use by the applicant agency.~~  
(c) ~~The communications division of the department of state police approves the use of the channel for LEIN data transmission.~~  
(d) ~~The agency workload justifies the microwave interface.~~

R 28.5317. ~~Installation of mobile terminal having access to LEIN; Council approval.~~ **Rescinded.**  
Rule 317. (1) ~~The installation of a mobile terminal having access to the LEIN shall be subject to the approval of the Council.~~  
(2) ~~The applicant agency that requests approval shall notify the Council in writing and shall provide all of the following information:~~  
(a) ~~The fact that a mobile terminal system is planned.~~  
(b) ~~The type of mobile terminal.~~  
(c) ~~The number of mobile terminals planned for installation.~~  
(d) ~~The date or dates of installation.~~  
(3) ~~The agency shall insure that all mobile terminals are secure from use by unauthorized personnel.~~

R 28.5318. ~~Terminal environment; location and security.~~ **Rescinded.**  
Rule 318. ~~All of the following constraints that pertain to terminal environment, location, and security shall be binding on a terminal agency:~~  
(a) ~~The terminal shall be located in a safe, clean, and dry environment.~~  
(b) ~~Each user agency shall provide electric service and controlled temperature and humidity levels specified by the terminal manufacturer.~~  
(c) ~~In a law enforcement agency, the principal terminal shall be located within, or adjacent to, the communications equipment control console to insure continuous monitoring of the printer or terminal screen, or both.~~  
(d) ~~The terminal shall be placed in a secure location which is under the direct control and supervision of authorized personnel of the user agency. The terminal shall be inaccessible to the public or to other~~

~~persons who are not qualified or authorized to operate, view, or possess data transmitted or received by the LEIN.~~

R 28.5319. ~~State-funded terminal agency; termination of LEIN access through a satellite computer system; application for LEIN terminal.~~ **Rescinded.**

~~Rule 319. A state funded terminal agency which elects to have access to the LEIN through a satellite computer system, which returns its state funded terminal to the CJDC, and which subsequently terminates its LEIN access through the satellite system may apply for a LEIN terminal by submitting an application as prescribed in R 28.5302.~~

#### **PART 4. RECORDS**

R 28.5401. ~~Records responsibility. generally.~~

Rule 401. (1) **An user agency is responsible for the accuracy and completeness of any record it enters into the LEIN, AFIS, CJIS and NCIC, and other information systems files. Each record in the file shall be identified with the agency that entered the record. Each agency shall validate records as required by Michigan and FBI CJIS policy. Both of the following shall apply:**

**(a) An agency that fails to comply with the validation and certification requirements within the prescribed time period shall have its records removed from LEIN, NCIC, and other information systems as required by state and federal policy.**

**(b) An agency that requires more than the specified time to validate its records shall submit a written request to the CSO for a reasonable time extension.**

**(2) Agencies may execute an agreement to allow an agency to enter records for another agency.**

**(3) An agency shall maintain complete and accurate files of all active records which are entered into LEIN, NCIC, or both, and shall ensure that the files are readily accessible to any person who is responsible for confirming the validity of records upon inquiry. Both of the following shall apply:**

**(a) An agency shall establish procedures to ensure that, upon inquiry, all records that are entered into either LEIN or NCIC files can be promptly confirmed as valid.**

**(b) An agency shall either maintain a 24-hour-a-day, seven-days-a-week operation or shall establish an alternative record verification procedure.**

**(4) If, following an inquiry, a positive response is received from LEIN or NCIC which indicates that a person is wanted or missing or that property is stolen, the agency shall immediately contact the agency listed on the record as responsible to confirm.**

R 28.5402. ~~Law enforcement user agency; entry of wanted persons and stolen vehicle and property records~~ **Timely entry of records.**

Rule 402. (1) **An agency shall immediately enter all records into LEIN, NCIC, AFIS, or other information systems after becoming aware of the need to do so, except in cases where immediate entry may jeopardize a criminal investigation. A law enforcement user agency shall enter, into either the LEIN or NCIC files, the records of all persons wanted by the agency and all vehicles or other property stolen in the agency's primary police jurisdiction.**

**(2) The entry shall be made as soon as possible after the investigating department either ascertains that a vehicle or other property is stolen or obtains a warrant for an individual's arrest. In no case shall this**

~~time be more than 12 hours after the user agency determines that it has grounds to believe that a vehicle or other property is stolen or that a wanted person should be taken into custody.~~

~~(23) All record entries shall be made pursuant to the procedures and codes published in the LEIN operations manual and the NCIC operating manual provided by the department.~~

~~(3) Courts may enter records with mutual agreement of all agencies involved.~~

R 28.5403. ~~Terminal agency; continuous terminal operation required; Council waiver.~~ **Rescinded.**

~~Rule 403. (1) A terminal agency that enters records into either the LEIN or NCIC files shall insure that its terminal is operated on a 24 hours per day, 7 days a week basis by competent, trained operators.~~

~~(2) The Council may waive the requirement of operating a terminal on a 24 hours per day, 7 days a week basis, if an acceptable alternative is available to insure that the agency's record can be immediately confirmed.~~

R 28.5404. ~~Record and broadcast message cancellation; CJDC record removal.~~

~~Rule 404. (1) An user agency shall promptly cancel a record from both the LEIN and NCIC files when a wanted person is arrested or returned, property is recovered, or in any other circumstance where the record is no longer valid.~~

~~(2) An user agency that initiates a broadcast message which is disseminated through the LEIN or NCIC and which requests that a person be arrested or that property be recovered shall insure ensure that the broadcast message is cancelled when it is no longer valid.~~

~~(3) A record may be removed from CJIS or NCIC if the CSO has The CJDC, with the approval of the Council, may remove a record from the LEIN or NCIC file if a substantial question exists concerning the record's validity or accuracy. Immediately upon the removal of any record, the CJDC CSO shall notify the entering agency of the action taken.~~

R 28.5405. ~~Record inquiry; confirmation of validity.~~ **Rescinded.**

~~Rule 405. (1) If, following an inquiry, a positive response is received from the LEIN or NCIC which indicates that a person is wanted or that property is stolen, the inquiring agency shall immediately confirm the validity of the record with the entering agency.~~

~~(2) If technically possible, an inquiry which is directed to the entering agency and which requests record confirmation shall be by means of a terminal-transmitted message. A response to such an inquiry shall be returned by means of a terminal message.~~

~~(3) A user agency shall respond promptly to an inquiry from another authorized agency which is relative to the validity and currentness of both its LEIN and NCIC record entries.~~

R 28.5406. ~~Positive response to inquiry; retention of computer printout.~~ **Rescinded.**

~~Rule 406. (1) If an operational computer inquiry concerning an individual or property results in a valid, positive response, the original copy of the terminal produced printout which shows the record on file in either the LEIN or NCIC shall be retained for use in documenting probable cause for the detention of a missing person, the arrest of a wanted person, or the seizure of property.~~

~~(2) The printout shall be retained for as long as the possibility exists that a person will challenge an arrest, search, or any other law enforcement action taken, based on information contained in the printout.~~

R 28.5407. ~~Active records file; maintenance.~~ **Rescinded.**

~~Rule 407. A user agency shall maintain complete and accurate files of all active records which are entered into the LEIN or NCIC, or both, and shall insure that the files are readily accessible to the terminal operator or to any other person who is responsible for confirming the validity of records upon inquiry.~~

R 28.5408. ~~Regional communications systems; maintenance of active records file.~~ **Rescinded.**

~~Rule 408. (1) A regional communications system that is authorized to enter records into the LEIN files or NCIC files, or both, for multiple member agencies shall maintain separate, active records for each agency serviced.~~

~~(2) If a member agency that participates in a regional communications system has access to the LEIN via another terminal located within its own department in addition to the terminals or terminals at the regional communications system, the member agency shall select 1 location, either the agency location or the communications center, that shall enter and maintain the records of that agency.~~

R 28.5409. ~~LEIN record validation programs; records listing; data comparison; cancellation or removal of inaccurate or invalid records; written certification of record's accuracy and validity; retention of current validation listing; failure to comply with validation and certification requirements; validation time extension.~~ **Rescinded.**

~~Rule 409. (1) A LEIN user agency that enters records into the LEIN and NCIC files shall participate in the LEIN record validation programs.~~

~~(2) The CJDC shall periodically prepare a listing of each record entered into the LEIN and NCIC files and shall forward the listing to the responsible agency. The responsible agency shall do all of the following:~~

~~(a) Compare the data in each record that appears in the listing with the information in its record case files to verify that the data is valid and accurate.~~

~~(b) If possible, determine from the complainant or court if the record information is still current and valid.~~

~~(c) Take the necessary steps to immediately cancel or remove a record from the LEIN which is determined to be inaccurate or invalid. A non terminal agency shall insure that when a record is no longer valid it is promptly cancelled by the agency's servicing terminal.~~

~~(d) Within 45 days of the receipt of the listing, have the agency head or his or her designated representative provide written certification on forms provided by the CJDC, that the records which appear on the listing are accurate and valid. The completed form shall be returned to the CJDC within the prescribed period.~~

~~(e) Retain the most current copy of each validation listing until the next listing is received from the CJDC.~~

~~(3) A user agency that fails to comply with the validation and certification requirements within the prescribed time period shall have its records removed from the LEIN and NCIC files.~~

~~(4) A user agency that requires more than 45 days to validate its records shall submit a written request to the Council for a reasonable time extension. The Council chairman or the executive secretary of the Council shall grant such extensions when warranted.~~

**R 28.5410. Records retention periods. Rescinded.**

~~Rule 410. A record shall be automatically purged from the computerized files of the LEIN or NCIC, or both, when the maximum retention period, as indicated in the following, has been exceeded:~~

- ~~(a) An unrecovered stolen vehicle record that does not include a vehicle identification number shall be retained for 90 days after entry.~~
- ~~(b) An unrecovered felony vehicle record shall be retained for 90 days after entry.~~
- ~~(c) An unrecovered stolen vehicle record that contains a vehicle identification number and a stolen vehicle part record shall be retained for the year of entry plus 4 years.~~
- ~~(d) An unrecovered stolen license plate record, whether or not associated with a stolen vehicle, shall be retained for 90 days after the license plate has expired.~~
- ~~(e) A non-expiring license plate record shall be retained for the year of entry plus 4 years.~~
- ~~(f) An unrecovered stolen or missing gun record shall be retained indefinitely or until action is taken by the originating agency to cancel it.~~
- ~~(g) A recovered gun record shall be retained for the year of entry plus 2 years.~~
- ~~(h) An unrecovered stolen, embezzled, counterfeited, or missing securities record, other than a traveler's check or a money order, shall be retained for the year of entry plus 4 years.~~
- ~~(i) A stolen or missing traveler's check or money order record shall be retained for the year of entry plus 2 years.~~
- ~~(j) An unrecovered stolen boat record shall be retained for the year of entry plus 4 years.~~
- ~~(k) An unrecovered stolen article record shall be retained for the year of entry plus 1 year.~~
- ~~(l) A warrant record shall be retained indefinitely unless cancelled by the entering agency.~~
- ~~(m) A felony record that is entered before the issuance of a warrant by a court shall be retained for 48 hours from the time of entry.~~
- ~~(n) A missing person record, other than a juvenile missing person record, shall be retained indefinitely.~~
- ~~(o) A juvenile missing person record shall be retained until the juvenile has reached the age of 17 years.~~

**R 28.5411. Out-of-state license plate data; purge procedures. Rescinded.**

~~Rule 411. Out-of-state license plate information that is included on a LEIN wanted or missing person or vehicle record entry shall be purged in accordance with either of the following:~~

- ~~(a) One year after the license plate has expired.~~
- ~~(b) When requested by the state of registry, either directly or through NCIC.~~

**R 28.5412. Wanted person record entry into NCIC; extradition rules. Rescinded.**

~~Rule 412. (1) Before entering a wanted person record into the NCIC files, the user agency shall, to the maximum extent possible, determine if extradition will be authorized by the prosecuting attorney if the wanted individual is located in another state.~~

- ~~(2) If an agency is certain that a wanted person will not be extradited, the record shall not be entered into the NCIC.~~
- ~~(3) If a prosecuting attorney establishes limits on extradition to within a certain distance or from certain states, the limitations shall be defined and included when the record is entered into the NCIC files.~~
- ~~(4) In some instances extradition cannot be forecast at the time a wanted person record is entered in the NCIC files. When it is determined that the person will not be extradited, the record shall be immediately cancelled from the NCIC files.~~



R 28.5413. ~~Parking violation arrest warrants; entry and inquiry provisions.~~ **Rescinded.**

~~Rule 413. (1) An arrest warrant that is issued by a court for violation of a parking statute or ordinance may be entered into the LEIN files if the violator was either personally served with the citation or has received 25 or more parking citations.~~

~~(2) A user agency shall not use the LEIN between the hours of 8 a.m. and 3 a.m. the following day for the purpose of obtaining vehicle registration information to record on a parking violation citation.~~

R 28.5414. ~~Warrants or orders for arrest of a member of the military forces charged with desertion or absence without leave; entry into LEIN prohibited.~~ **Fees for access to LEIN services.**

~~Rule 414. A warrant or any other order which is issued by a branch of the United States military services and which directs the arrest of a member of the military forces who is charged with desertion or absence without authorized leave, AWOL, shall not be entered into the LEIN computer files. It is the responsibility of the military service concerned to enter such warrants or orders into the NCIC computer files through terminals designated for this purpose.~~ specific federal

**(1) The department shall assess fees annually for access to LEIN services. Each agency or entity having been granted access to LEIN shall pay to the department the fees listed in subrule (2) of this rule. Both of the following apply:**

**(a) The department shall notify each agency or entity in writing of the fees for which they are responsible. The notification shall be mailed as soon as practical after the beginning of each state fiscal year.**

**(b) The notification shall identify a deadline by which payment must be made. The deadline shall be not less than 90 days from the date of mailing.**

**(2) Agencies or entities having LEIN access shall pay each of the following fees, as applicable:**

**(a) Law Enforcement Per Capita Fee - \$12.00 per officer. This fee shall be determined by officer staffing reported by the agency to the Michigan Incident Crime Reporting (MICR) program. Officer staffing reported to the Michigan commission on law enforcement standards shall be used to determine this fee for agencies not reporting to the MICR.**

**(b) Agency Fee - \$800.00. This fee shall be assessed to each agency in the LEIN.**

**(c) Station Fee - \$2,000.00. This fee shall be assessed for each personal computer that receives unsolicited messages, or a mainframe, message switch, or server connected to the LEIN.**

**(d) Federal, Private, or Noncriminal Justice Agency Surcharge - \$2,500.00. This fee shall be assessed for each federal, private, or noncriminal justice agency having access to the LEIN.**

**(e) For-Profit Vendor Fee - \$10,000.00.**

**(3) The department may assess fees on a prorated basis to agencies or entities granted LEIN access after the annual fee assessments described in subrule (1) of this rule.**

**(4) Agencies or entities that have not paid the required fees 30 days after the deadline for payment shall be notified by the department in writing of their delinquent status.**

**(5) The department may suspend or reduce LEIN services provided to agencies or entities that have not paid the required fees 90 days after the deadline for payment. Both of the following apply:**

**(a) The decision to suspend or reduce services shall be within the sole discretion of the department.**

**(b) At least 10 business days before suspending or reducing LEIN services, the department shall notify the head of the affected agency or entity in writing.**

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**NOTICE OF PUBLIC HEARING**

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DEPARTMENT OF STATE POLICE  
CRIMINAL RECORDS DIVISION

CRIMINAL JUSTICE INFORMATION SYSTEMS  
Rule Set 2008-035 SP

**NOTICE OF PUBLIC HEARING**

February 24, 2009  
Michigan State Police Training Academy  
7426 North Canal Road  
Lansing, Michigan  
9:30 a.m. – 12:00 p.m.

The Department of State Police, Criminal Records Division will hold a public hearing on Tuesday, February 24, 2009, at the Michigan State Police Training Academy, 7426 North Canal Road, Lansing, Michigan from 9:30 a.m. to 12:00 p.m. The hearing will be held to receive public comments on proposed rules governing criminal justice information systems.

The proposed rules are changes to existing rules, drafted to clarify the procedures governing access to and use of criminal justice information systems, and to incorporate the requirements of Michigan statutes and Executive Orders amended or enacted since the previous rules were promulgated.

These rules are promulgated by authority conferred on the Department of State Police by 1974 PA 163, MCL 28.214. These rules will take effect immediately upon filing with the Secretary of State.

The rules [Rule Set 2008-035 SP] are published on the Michigan Government website at <http://www.michigan.gov/orr> and in the February 15, 2009 issue of the *Michigan Register*. Comments may be submitted to the following address at any time before 5:00 p.m. on February 24, 2009. Copies of the draft rules may also be obtained by mail or electronic transmission at the following address:

Department of State Police  
Criminal Records Division  
106 West Allegan Street  
Lansing, Michigan 48933

Phone: Capt. Charles Bush at (517) 322-5018, e-mail: [bushce@michigan.gov](mailto:bushce@michigan.gov)

The hearing site is accessible, including handicapped parking. Individuals attending the meeting are requested to refrain from using heavily scented personal care products, in order to enhance accessibility for everyone. People with disabilities requiring additional accommodations such as information in alternative formats in order to participate in the hearing should contact Capt. Bush at least 14 business days before the hearing.

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**EXECUTIVE ORDERS  
AND  
EXECUTIVE REORGANIZATION ORDERS**

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*MCL 24.208 states in part:*

*“Sec. 8. (1) The State Office of Administrative Hearings and Rules shall publish the Michigan register at least once each month. The Michigan register shall contain all of the following:*

*(a) Executive orders and executive reorganization orders.”*

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**EXECUTIVE ORDERS**

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**EXECUTIVE ORDER**  
**No. 2008 – 21**

**IMPLEMENTATION OF EXPENDITURE REDUCTIONS UNDER  
SECTION 20 OF ARTICLE V OF THE MICHIGAN CONSTITUTION OF 1963**

WHEREAS, under Section 20 of Article V of the Michigan Constitution of 1963, the Governor, with the approval of the appropriating committees of the House of Representatives and the Senate, shall reduce expenditures authorized by appropriations whenever it appears that actual revenues for a fiscal period will fall below the revenue estimates on which appropriations for that period were based, and the reductions shall be made in accordance with procedures prescribed by law;

WHEREAS, it appears that actual revenues for the fiscal period beginning on October 1, 2008 and ending on September 30, 2009, will fall below the revenue estimates on which appropriations for that period were based, the estimates having been determined by the Legislature as required under Section 31 of Article IV of the Michigan Constitution of 1963;

WHEREAS, pursuant to Section 391 of The Management and Budget Act, 1984 PA 431, MCL 18.1391, on the basis of written information from the State Budget Director and the State Treasurer, it appears that actual revenue will fall below such revenue estimates;

WHEREAS, there is an unanticipated loss of funding that the departments and agencies of state government do not expect to obtain or make up during the current fiscal year;

WHEREAS, expenditure reductions totaling \$133,952,600.00 general fund-general purpose and \$11,800,000.00 special purpose funds are necessary;

NOW, THEREFORE, I, Jennifer M. Granholm, Governor of the State of Michigan, by virtue of the power and authority vested in the Governor under the Michigan Constitution of 1963 and Michigan law, and with the approval of a majority of members of each appropriations committee, order the following reductions in expenditures:

A. Portions of general fund-general purpose expenditures authorized by appropriations amounting to \$133,952,600.00 contained in the following public acts are hereby reduced. Where the expenditure reductions of general fund-general purpose appropriations in this Order reduce the restricted portions of gross appropriations and sources of financing that will be earned, the amounts to be reduced shall be provided separately to the State Budget Director for approval and entry into the accounts.

	Reduction	
Public Act	Department	Amount
2008 PA 253	Agriculture	\$487,400
2008 PA 261	Attorney General	482,300
2008 PA 261	Civil Rights	186,300
2008 PA 246	Community Health	37,857,100
2008 PA 245	Corrections	26,404,000
2008 PA 212	Education	113,300

2008 PA 247	Environmental Quality	667,000
2008 PA 254	History, Arts, and Libraries	322,800
2008 PA 248	Human Services	63,261,000
2008 PA 251	Labor and Economic Growth	856,500
2008 PA 261	Management and Budget	1,026,300
2008 PA 214	Military and Veterans Affairs	632,300
2008 PA 252	Natural Resources	159,400
2008 PA 261	State	398,000
2008 PA 261	Treasury	1,098,900
TOTAL		\$133,952,600

B. The reduction totals for the departments in Section A include the following appropriation items or are predicated upon the following actions:

1. Department of Agriculture

Appropriation

Number	Item	Reduction Amount
01420	Rent and building occupancy charges	240,000
02205	Pesticide and plant pest management	100,000
03120	Environmental stewardship	100,000
03250	Technical assistance match	47,400
		487,400

2. Department of Attorney General

Appropriation

Number	Item	Reduction Amount
01040	Attorney general operations	482,300
		482,300

3. Department of Civil Rights

Appropriation

Number	Item	Reduction Amount
01000	Civil rights operations	156,300
02100	Information technology services and projects	30,000
		186,300

4. Department of Community Health

Appropriation

Number	Item	Reduction Amount
01130	Mental health/substance abuse program administration	300,000
01191	Departmental administration and management	200,000
02965	Medicaid mental health services	299,200
04000	Center for forensic psychiatry	1,000,000
14230	Family, maternal, and children's health services administration	158,000

14355	Medical care and treatment	9,086,100
16230	Laboratory services	150,000
18330	Health systems administration	300,000
33500	Hospital services and therapy	3,123,500
33540	Pharmaceutical services	233,900
33550	Health plan services	3,258,900
33630	Single point of entry	1,000,000
33680	Long-term care services	18,340,900
34010	Medical services administration	406,600
		37,857,100

5. Department of Corrections

Appropriation

Number	Item	Reduction Amount
02072	New custody staff training	3,611,000
05083	Information technology services and projects	61,800
17520	Southwestern region clinical complexes	2,379,000
29005	MPRI education program	716,900
29511	Prison food service	3,158,500
29512	Transportation	111,100
74002	Michigan reformatory – Ionia	10,555,500
77002	Lakeland correctional facility – Coldwater	5,810,200
		26,404,000

6. Department of Education

Appropriation

Number	Item	Reduction Amount
01605	Central support	37,500
01610	Terminal leave payments	15,000
01623	Building occupancy charges – property management services	17,300
07501	School finance and school law operations	43,500
		113,300

7. Department of Environmental Quality

Appropriation

Number	Item	Reduction Amount
01001	Executive direction	50,000
01093	Unclassified salaries	50,000
02808	Field permitting and project assistance	87,500
03326	Mineral wells management	1,500
04320	Pollution prevention and technical assistance	24,600
04541	Contaminated site investigation, cleanup, and revitalization	31,700
04620	Air quality programs	130,000
04706	Hazardous waste management program	18,000
04709	Radiological protection program	16,000

04715	Underground storage tank program	14,000
04718	Aboveground storage tank program	5,000
04726	Solid waste management program`	9,500
04918	Water withdrawal assessment program	166,000
06051	Water pollution control and drinking water revolving fund	63,200
		667,000

8. Department of History, Arts, and Libraries

Appropriation

Number	Item	Reduction Amount
01100	Management services	29,100
03050	Library of Michigan operations	202,900
04100	Historical administration and services	68,600
04180	Thunder Bay national marine sanctuary and underwater preserve	2,500
07511	Mackinac Island park operation	17,400
07516	Historical facilities system	2,300
		322,800

9. Department of Human Services

Appropriation

Number	Item	Reduction Amount
11040	Contractual services, supplies, and materials – Executive Operations	100,000
11400	Electronic benefit transfer EBT	100,000
12080	Payroll taxes and fringe benefits	7,494,100
15100	AFC, children's welfare and day care licensure	3,300,000
16100	Information technology services and projects	102,300
16500	Child support automation	170,000
32500	Family independence program	23,287,200
32550	Day care services	12,113,400
47610	Medium security juvenile services	1,000,000
62610	Field staff, salaries and wages	10,647,400
72750	Adoption subsidies	4,746,600
81450	Employment and training support services	200,000
		63,261,000

10. Department of Labor and Economic Growth

Appropriation

Number	Item	Reduction Amount
06000	Workforce programs administration	150,000
11601	Administration	600,000
11603	Board of magistrates and appellate commission	31,500
27010	Fire marshal program	15,000
27120	Fire fighters training council	30,000

27130 Fire safety program 30,000  
856,500

11. Department of Management and Budget

Appropriation

Number	Item	Reduction Amount
00005	Information technology services and projects (Department of Management and Budget)	
	207,200	
12000	Administrative services	3,800
13000	Budget and financial management	132,200
14000	Office of the state employer	22,600
16000	Business support services	74,900
19150	Information technology services and projects (Civil Service Commission)	46,100
19300	Executive direction	262,500
19900	Human resources operations	237,000
	986,300	

The Department of Management and Budget shall reduce building occupancy general fund expenditures by \$40,000.00. The State Budget Director is authorized to take any and all actions necessary to properly record expenditure reductions as part of the financial transactions for the fiscal year ending September 30, 2009.

12. Department of Military and Veterans Affairs

Appropriation

Number	Item	Reduction Amount
01011	Headquarters and armories	75,000
02011	Military training sites and support facilities	57,800
03011	Departmentwide accounts	52,500
03500	Grand Rapids veterans' home	319,100
03700	D. J. Jacobetti veterans' home	100,600
03800	Information technology services and projects	200
05525	Veterans' affairs directorate administration	27,100
	632,300	

13. Department of Natural Resources

Appropriation

Number	Item	Reduction Amount
01001	Executive direction	10,200
01005	Communications	6,600
01092	Commission	500
01093	Unclassified salaries	1,300
01105	Internal audit services	600
01106	Budget and support services	3,200
01107	Financial services	4,100
01108	Grants management	3,600



02020	Land and facilities	6,900	
02129	Cooperative resource programs	14,000	
02132	Wildfire protection	50,100	
02207	Natural resources heritage	15,100	
02302	Water withdrawal assessment program	28,100	
03116	General law enforcement	15,100	
		159,400	

14. Department of State

Appropriation

Number	Item	Reduction Amount	
10000	Operations – Executive direction	3,800	
14100	Operations – Department services	52,400	
15100	Operations – Regulatory services	40,600	
19100	Branch operations	183,700	
19300	Central operations	113,800	
45500	Information technology services and projects	3,700	
		398,000	

15. Department of Treasury

Appropriation

Number	Item	Reduction Amount	
01201	Treasury operations information technology services and projects	13,400	
01308	Rent and building occupancy charges – property management services	250,000	
03010	Economic development job training grants (Michigan Strategic Fund)	447,000	
09517	Renaissance zone reimbursement	388,500	
		1,098,900	

C. Portions of appropriations financed with special purpose revenue amounting to \$11,800,000.00 contained in the following public acts are reduced as follows:

Public Act	Reduction Department	Amount
2008 PA 245	Corrections	\$1,800,000
2008 PA 213	Higher Education	10,000,000
	TOTAL	11,800,000

D. The reduction totals for the departments and agencies in Section C include the following appropriation items or are predicated upon the following actions:

1. Department of Corrections – Trooper Recruit School Fund

Appropriation

Number	Item	Reduction Amount	
29000	Trooper recruit school fund	1,800,000	
		1,800,000	

The amount in Section 926(4) of 2008 PA 245 is reduced to \$0.00.

2. Higher Education – Michigan Merit Award Trust Fund

Appropriation

Number	Item	Reduction Amount
80100	Michigan promise grant program	10,000,000
	10,000,000	

The State Budget Director is authorized to take any and all actions necessary to implement the provisions of this Order to reduce expenditures authorized by appropriations as specified above for the fiscal year beginning on October 1, 2008 and ending on September 30, 2009.

This Order is effective upon approval by the appropriations committees of the House of Representatives and the Senate, as provided under Section 20 of Article V of the Michigan Constitution of 1963 and Section 391 of The Management and Budget Act, 1984 PA 431, MCL 18.1391.

Given under my hand and the Great Seal  
of the State of Michigan this 10th day of December, in the year of our Lord, two thousand and eight.

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JENNIFER M. GRANHOLM  
GOVERNOR

BY THE GOVERNOR:

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SECRETARY OF STATE

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**EXECUTIVE ORDERS**

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Executive Order 2008 – 22  
STATE EQUAL OPPORTUNITY AND DIVERSITY COUNCIL  
DEPARTMENT OF CIVIL RIGHTS

WHEREAS, Section 1 of Article V of the Michigan Constitution of 1963 vests the executive power of the State of Michigan in the Governor;

WHEREAS, under Section 8 of Article V of the Michigan Constitution of 1963, the Governor transacts all necessary business with the officers of state government and may require information in writing from all executive and administrative state officers, elective and appointive, upon any subject relating to the duties of their respective offices;

WHEREAS, the diversity of the people of the State of Michigan is one of this state's greatest strengths;

WHEREAS, when the State of Michigan embraces diversity and acts inclusively, the state benefits from the contribution and full participation of all Michiganians;

WHEREAS, the employment and purchasing practices of the State of Michigan should promote public confidence in the fairness and integrity of government, and should reflect a firm commitment to inclusion and equal employment opportunities in compliance with the Michigan Constitution of 1963;

WHEREAS, it is the policy of this administration to ensure equal access and opportunities in the recruitment, hiring, promotion, and retention of employees in the state's classified service without regard to religion, race, color, national origin, age, sex, sexual orientation, gender identity or expression, height, weight, marital status, partisan considerations, genetic information, or a disability that is unrelated to the person's ability to perform the duties of a particular job or position;

WHEREAS, because today's smaller, more efficient state government depends upon recruiting and retaining highly-qualified employees, applicant pools for positions in the state classified service that do not include members of diverse segments of the population may not include the most qualified individuals;

WHEREAS, state employees that interact regularly with a diverse workforce are better able to relate and respond to the needs of the diverse communities and residents served by state government;

WHEREAS, a strong commitment to a diverse, inclusive, and equitable workplace coupled with recruitment, hiring, promotion, and retention policies and practices based on merit, efficiency, and fitness will enable Michigan to better serve its residents;

WHEREAS, state employment practices based on a commitment to a diverse, inclusive, and equitable workplace provide desirable models for the private sector and local governments and build upon successful policies and procedures of private and public sector employers;

WHEREAS, this administration is firmly committed to strengthening and developing diversity and equal opportunity in state employment;

WHEREAS, it is recognized that this state's ability to procure goods and services is funded by Michigan taxpayers;

WHEREAS, it is the policy of this administration to promote equal opportunity in and access to the state procurement process for all Michigan taxpayers;

NOW, THEREFORE, I, Jennifer M. Granholm, Governor of the State of Michigan, by virtue of the power and authority vested in the Governor by the Michigan Constitution of 1963 and Michigan law, order:

## **I. DEFINITIONS**

As used in this Order:

A. "Civil Rights Commission" means the commission established by Section 29 of Article V of the Michigan Constitution of 1963.

B. "Civil Service Commission" means the Michigan Civil Service Commission created under Section 5 of Article XI of the Michigan Constitution of 1963.

C. "Classified service" means the state classified service as provided for under Section 5 of Article XI of the Michigan Constitution of 1963.

D. "Council" means the State Equal Opportunity and Diversity Council created within the Department of Civil Rights under Section II of this Order

E. "Department of Civil Rights" or "Department" means the principal department of state government created by Section 475 of the Executive Organization Act of 1965, 1965 PA 380, MCL 16.575.

F. "Office of the State Employer" means the autonomous office created within the Department of Management and Budget by Executive Order 1979-5, with duties including, but not limited to, those assigned by Executive Orders 1979-5, 1981-3, 1988-6, 2002-18, and 2004-31.

G. "State Personnel Director" means the administrative and principal executive officer of the Civil Service Commission provided for under Section 5 of Article XI of the Michigan Constitution of 1963.

## **II. CREATION OF THE STATE EQUAL OPPORTUNITY AND DIVERSITY COUNCIL**

A. The State Equal Opportunity and Diversity Council is established as an advisory body in the Department of Civil Rights.

B. The Council shall consist of the following 6 members:

1. The Director of the Department of Civil Rights.

2. The Director of the Department of Energy, Labor, and Economic Growth or his or her designee from within the Department of Energy, Labor, and Economic Growth.
  3. The Director of the Department of Management and Budget or his or her designee from within the Department of Management and Budget.
  4. The Director of the Office of the State Employer or his or her designee from within the Office of the State Employer.
  5. The State Personnel Director.
  6. The state employee or officer within the executive branch of state government designated by the Governor under Executive Order 2004-31 as the State ADA Coordinator.
- C. The Director of the Department of Civil Rights shall serve as the Chairperson of the Council.

### **III. CHARGE TO THE COUNCIL**

A. The Council shall act in an advisory capacity to the Governor, the Civil Rights Commission, and the Civil Service Commission, and shall do all of the following:

1. Recommend actions for all state departments and agencies intended to foster an environment in state government in which all of the following apply:
  - a. Employees are assured an equal opportunity to reach their full potential while pursuing organization objectives.
  - b. Workplace decisions are directed to ensure that a highly qualified workforce is able to provide Michigan's diverse communities and residents with high-quality services.
  - c. Equal opportunity and diversity are recognized as necessary to ensure fair representation and treatment of diverse employees, communities, and residents.
  - d. State employees understand and respect the heritage and culture of diverse communities and respond to the uniqueness of individuals.
  - e. Employees are encouraged to reach beyond their own experience to appreciate and work effectively with different people.
2. Establish a department liaison group consisting of an equal employment opportunity officer designated by each principal department of state government. The liaison group shall assist the Council by studying best practices and providing recommendations to the Council on recruitment, hiring, promotion, and retention of employees in the state classified service and the use of personnel services contracts by state departments and agencies consistent with the Michigan Constitution of 1963 and applicable law.

3. Review and recommend policies and procedures to assure compliance by state departments and agencies with equal employment opportunity requirements, equal contracting opportunity requirements, and related state and federal laws and regulations.

4. Recommend a training program for state employees designed to educate, promote, and advance knowledge of and respect for diversity. At a minimum, the recommendation shall provide for mandatory training for all state employees every three years and training for new employees within the first six months of employment.

5. Review and evaluate state personnel rules, policies, and procedures, recruitment and retention efforts, and career development programs affecting employees in the classified service to assure a commitment to equal opportunity and diversity.

6. Review and evaluate department and agency efforts to develop and implement equal employment opportunity plans and procedures. The Civil Rights Commission shall continue to review equal employment opportunity plans and procedures submitted by departments and agencies to assure compliance with the Michigan Constitution of 1963, the Persons with Disabilities Civil Rights Act, 1976 PA 220, MCL 37.1101 to 37.1607, and the Elliott-Larsen Civil Rights Act, 1976 PA 453, MCL 37.2101 to 37.2804.

B. In performing Council duties and functions, the Council may request information from state departments and agencies, including, but not limited to, all of the following:

1. Periodic updates on recruitment plans and strategies and their effectiveness.

2. Identification of barriers and obstacles that interfere with successful recruitment, retention, career development, and related employment activities and strategies.

3. Workforce analysis data.

4. Equal employment opportunity plans filed with the Civil Rights Commission, the Civil Service Commission, or federal agencies.

C. The Council shall recommend to the Governor, the Civil Rights Commission, and the Civil Service Commission actions to develop and implement programs and strategies throughout state government focused on active internal and external recruitment of qualified, interested, and diverse job applicants to foster a classified service prepared to meet the present and future needs of Michigan residents.

D. The Council shall recommend to the Governor actions necessary to develop and implement programs and strategies throughout state government to provide equal opportunity and diversity in the state procurement process while providing Michigan taxpayers with the best value for money spent by state departments and agencies.

E. The Civil Service Commission shall continue to serve as a central location for workforce data collection and analysis and may collect and compile data as requested by the Council.

#### **IV. OPERATIONS OF THE COUNCIL**

- A. The Council shall be staffed and assisted by personnel from the Department, subject to available funding. Any budgeting, procurement, or related management functions of the Council shall be performed under the direction and supervision of the Director of the Department.
- B. The Council shall adopt procedures consistent with Michigan law and this Order governing its organization and operations.
- C. A majority of the members of the Council serving constitutes a quorum for the transaction of the Council's business. The Council shall act by a majority vote of its serving members.
- D. The Council shall meet at the call of the Chairperson and as may be provided in procedures adopted by the Council.
- E. The Council may establish advisory workgroups composed of state officers, state employees, or members of the public who are not members of the Council. The Council may adopt, reject, or modify any recommendations proposed by an advisory workgroup.
- F. The Council may, as appropriate, make inquiries, studies, investigations, hold hearings, and receive comments from the public. The Council may also consult with outside experts in order to perform its duties, including, but not limited to, experts in the private sector, organized labor, government agencies, and at institutions of higher education.
- G. Members of the Council shall serve without compensation. Members of the Council may receive reimbursement for necessary travel and expenses consistent with relevant statutes and the rules and procedures of the Civil Service Commission and the Department of Management and Budget, subject to available funding.
- H. The Council may hire or retain contractors, sub-contractors, advisors, consultants, and agents, and may make and enter into contracts necessary or incidental to the exercise of the powers of the Council and the performance of its duties as the Director of the Department deems advisable and necessary, in accordance with this Order, and the relevant statutes, rules, and procedures of the Civil Service Commission and the Department of Management and Budget.
- I. The Council may accept donations of labor, services, or other things of value from any public or private agency or person.
- J. All state departments and agencies shall cooperate with the Council in the performance of its duties and responsibilities under this Order. The Council may request, and state departments and agencies shall provide, information and assistance that the Council requires in the performance of its duties and responsibilities under this Order.
- K. Members of the Council shall refer all legal, legislative, and media contacts to the Department.

## **V. MISCELLANEOUS**

- A. Executive Order 1996-13 is rescinded in its entirety.

B. Nothing in this Order shall be construed to diminish or limit the power of the Civil Rights Commission to exercise authority granted to the Commission under Section 29 of Article V of the Michigan Constitution of 1963.

C. Nothing in this Order shall be construed to diminish or limit the power of the Civil Service Commission to exercise authority granted to the Commission under Section 5 of Article XI of the Michigan Constitution of 1963.

D. All departments, committees, commissioners, or officers of this state, or of any political subdivision of this state, shall give to the Council or to any member or representative of the Council, any necessary assistance required by the Council or any member or representative of the Council, in the performance of the duties of the Council so far as is compatible with its, his, or her duties. Free access shall also be given to any books, records, or documents in its, his, or her custody, relating to matters within the scope of inquiry, study, or review of the Council.

E. This Order shall not abate any suit, action, or other proceeding lawfully commenced by, against, or before any entity affected under this Order. Any suit, action, or other proceeding may be maintained by, against, or before the appropriate successor of any entity affected under this Order.

F. The invalidity of any portion of this Order shall not affect the validity of the remainder of the Order, which may be given effect without any invalid portion. Any portion of this Order found invalid by a court or other entity with proper jurisdiction shall be severable from the remaining portions of this Order.

G. This Order is effective upon filing.

Given under my hand and the Great Seal of the State of Michigan this 18th day of December, in the year of our Lord, two thousand eight.

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JENNIFER M. GRANHOLM  
GOVERNOR

BY THE GOVERNOR:

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Secretary of State



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**EXECUTIVE ORDERS**

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**EXECUTIVE ORDER**

No. 2008 – 23

**MOTOR CARRIER SAFETY ASSISTANCE PROGRAM  
TRAFFIC SAFETY DIVISION  
MICHIGAN DEPARTMENT OF STATE POLICE**

WHEREAS, Section 1 of Article V of the Michigan Constitution of 1963 vests the executive power of the State of Michigan in the Governor;

WHEREAS, Section 8 of Article V of the Michigan Constitution of 1963 provides that the Governor shall take care that the laws be faithfully executed;

WHEREAS, Section 2 of Article V of the Michigan Constitution of 1963 empowers the Governor to make changes in the organization of the executive branch or in the assignment of functions among its units that the Governor considers necessary for efficient administration;

WHEREAS, the federal Surface Transportation Assistance Act of 1982, Public Law 97-424, provides, among other things, assistance to states in the development and implementation of programs for the enforcement of federal or compatible state rules, regulations, standards, and orders, applicable to commercial motor vehicle safety;

WHEREAS, one such program is the Commercial Motor Carrier Safety Assistance Program, a federal grant program that provides financial assistance to states to reduce the number and severity of accidents and hazardous materials incidents involving commercial motor vehicles;

WHEREAS, under Section 201 of Part 350 of Chapter III of Title 49 of the Code of Federal Regulations, 49 CFR 350.201, Michigan's participation in the Commercial Motor Carrier Safety Assistance Program requires the designation of a state commercial motor vehicle safety agency as a lead agency within the State of Michigan for the administration and implementation of the commercial motor vehicle safety enforcement plan;

WHEREAS, the responsibility for commercial motor vehicle enforcement was conferred upon the Department of State Police by Executive Order 1982-1, MCL 28.21;

WHEREAS, the Motor Carrier Division was established within the Department of State Police by 1982 PA 531 and designated as the lead agency for the Motor Carrier Safety Assistance Program by Executive Order 1994-9;

WHEREAS, in April 2007, the Motor Carrier Division and the Traffic Services Section merged to form the Traffic Safety Division within the Department of State Police;

WHEREAS, formal designation of the Traffic Safety Division within the Department of State Police as the new lead agency for the Motor Carrier Safety Assistance Program is necessary to appropriately reflect the current organizational structure of state government and to comply with federal law;

NOW THEREFORE, I, Jennifer M. Granholm, Governor of the State of Michigan, by virtue of the power and authority vested in the Governor by the Michigan Constitution of 1963 and Michigan law, order the following:

## I. DEFINITIONS

As used in this Order:

A. “Department of State Police” means the principal department of state government created under Section 150 of the Executive Organization Act of 1965, 1965 PA 380, MCL 16.250.

B. “Motor Carrier Safety Assistance Program” means the federal grant program that provides assistance to states to reduce the number and severity of accidents and hazardous materials incidents involving commercial motor vehicles.

## II. DESIGNATION OF THE TRAFFIC SAFETY DIVISION AS THE LEAD AGENCY FOR THE MOTOR CARRIER SAFETY ASSISTANCE PROGRAM

A. The Traffic Safety Division of the Department of State Police is designated as the lead agency for the administration and enforcement of the Motor Carrier Safety Assistance Program and shall do all of the following:

1. Provide, through the use of all available resources, a comprehensive state enforcement plan to reduce commercial vehicle traffic accidents, deaths, injuries, and any resulting property damage.
2. Apply for and accept grants from the federal government under the provisions of the federal Surface Transportation Assistance Act of 1982, Public Law 97-424, 42 USC 2301 to 42 USC 2311, as amended, to expend or approve for expenditure the grants in a manner consistent with the Michigan Constitution of 1963 and the laws of this state.
3. Apply for and accept grants from any public or private source for use in commercial vehicle safety programs and to expend the grants in a manner consistent with the Michigan Constitution of 1963 and the laws of this state.
4. Administer commercial vehicle safety grants to state departments, local units of government, and nonprofit organizations according to the rules, regulations, and procedures of the federal Surface Transportation Assistance Act of 1982, Public Law 97-424, 42 USC 2301 to 42 USC 2311, as amended, and the laws of this state.
5. Assist in the coordination of commercial vehicle safety programs of all state departments and agencies, local units of government and private agencies.

## III. MISCELLANEOUS

A. Executive Order 1994-9 is rescinded in its entirety.

B. This Order shall not abate any suit, action, or other proceeding lawfully commenced by, against, or before any entity affected under this Order. Any suit, action, or other proceeding may be maintained by, against, or before the appropriate successor of any entity affected under this Order.

C. The invalidity of any portion of this Order shall not affect the validity of the remainder of the Order, which may be given effect without any invalid portion. Any portion of this Order found invalid by a court or other entity with proper jurisdiction shall be severable from the remaining portions of this Order.

D. This Order is effective upon filing.

Given under my hand and the Great Seal of the State of Michigan this 18th day of December, in the year of our Lord, two thousand eight.

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JENNIFER M. GRANHOLM  
GOVERNOR

BY THE GOVERNOR:

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Secretary of State

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**EXECUTIVE ORDERS**

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EXECUTIVE ORDER No. 2009 - 1

DEPARTMENT OF ENERGY, LABOR, AND ECONOMIC GROWTH  
GREAT LAKES WIND COUNCIL

WHEREAS, Section 1 of Article V of the Michigan Constitution of 1963 vests the executive power of the State of Michigan in the Governor;

WHEREAS, Section 52 of Article IV of the Michigan Constitution of 1963 provides that "[t]he conservation and development of the natural resources of the state are hereby declared to be matters of paramount public concern in the interest of the health, safety, and general welfare of the people";

WHEREAS, the Great Lakes are Michigan's most precious natural resource and the government of this state has a solemn, perpetual, fiduciary responsibility to protect and preserve the waters of the Great Lakes in public trust for the citizens of Michigan;

WHEREAS, the Great Lakes provide tremendous economic value to the citizens of Michigan in the tourism, recreation, fishing, and shipping industries;

WHEREAS, the availability, consistency, and velocity of wind in the Great Lakes makes their waters uniquely attractive to wind energy developers seeking to build offshore wind energy systems;

WHEREAS, Michigan State University's Land Policy Institute recently issued a study determining that Michigan could produce a significant amount of electric generating capacity from offshore wind energy systems in the Great Lakes;

WHEREAS, wind developers are currently exploring offshore wind energy projects in many states, including in the Great Lakes waters of New York, Ohio, Ontario, and Wisconsin;

WHEREAS, the State of Michigan holds title to approximately 40% of the bottomlands of the Great Lakes;

WHEREAS, it is likely that in the near future wind energy developers will approach the State of Michigan with proposals to build offshore wind energy systems in the Great Lakes;

WHEREAS, Michigan does not currently have established criteria to govern the siting of offshore wind energy systems;

WHEREAS, Michigan must proactively prepare for the possibility of wind energy systems in the Great Lakes by ensuring that wind energy systems are not constructed in locations that would unduly impact Michigan's tourism, recreation, shipping, or fishing industries, its wildlife populations, its property values, or its citizens' quality of life;

WHEREAS, if developed properly, offshore wind energy systems in a very small portion of Michigan's vast share of the Great Lakes could provide a significant portion of Michigan's and the Midwest's electricity needs, improve Michigan's economy, and create jobs in this state;

WHEREAS, electricity generation from coal-fired power plants is a significant source of mercury, sulfur dioxide, and greenhouse gases that are harmful to the Great Lakes, while wind energy systems produce zero emissions of mercury, sulfur dioxide, and greenhouse gases;

WHEREAS, wind power is currently cost-competitive with other new sources of electricity generation, making wind power the fastest growing renewable energy resource in the United States and creating tens of thousands of jobs in this industry;

WHEREAS, because of the significant costs of transporting enormous utility-scale wind turbines, wind turbine manufacturers typically invest in manufacturing facilities in regions that have significant local markets for their products;

WHEREAS, the U.S. Department of Energy recently cited a study showing that Michigan is one of the top four states to expand jobs in wind turbine manufacturing, with a job creation potential of over 30,000 jobs;

WHEREAS, Michigan already is home to dozens of companies in the wind energy industry, and hundreds more Michigan companies are exploring expansions in this industry;

WHEREAS, a Great Lakes Wind Council would provide the citizens of Michigan with a public forum to begin to answer important questions about where in the Great Lakes wind energy systems might be prudently sited and where wind energy systems should never be sited;

NOW, THEREFORE, I, Jennifer M. Granholm, Governor of the State of Michigan, by virtue of the power and authority vested in the Governor by the Michigan Constitution of 1963 and Michigan law, order the following:

## I. DEFINITIONS

As used in this Order:

A. "Department of Energy, Labor, and Economic Growth" or "Department" means the principal department of state government created by Section 225 of the Executive Organization Act of 1965, 1965 PA 380, MCL 16.325, and renamed by Executive Order 1996-2, MCL 445.2001, by Executive Order 2003-18, MCL 445.2011, and by Executive Order 2008-20.

B. "Council" means the Great Lakes Wind Council created under Section II of this Order.

## II. CREATION OF THE GREAT LAKES WIND COUNCIL

A. The Michigan Great Lakes Wind Council is created as an advisory body within the Department of Energy, Labor, and Economic Growth.

B. The Council shall consist of the following voting members:

1. The Director of the Department of Energy, Labor, and Economic Growth, or his or her designee.
2. The Director of the Department of Environmental Quality, or his or her designee.
3. The Director of the Department of Natural Resources, or his or her designee.
4. The Director of the Department of Transportation, or his or her designee.
5. The Director of the Department of History, Arts, and Libraries, or his or her designee.
6. The President of the Michigan Strategic Fund, or his or her designee.
7. The Chairperson of the Michigan Public Service Commission, or his or her designee.
8. The Director of the Office of the Great Lakes, or his or her designee.
9. The following members appointed by the Governor:
  - a. One resident of this state representing a statewide environmental organization.
  - b. One resident of this state representing the tourism industry.
  - c. One resident of this state representing the commercial shipping industry.
  - d. One resident of this state representing the charter fishing industry.
  - e. Two residents of this state representing electric utilities.
  - f. One resident of this state representing independent electric transmission companies.
  - g. One resident of this state representing the wind energy development industry.
  - h. One resident of this state representing Native American tribal governments.
  - i. One resident of this state representing local government officials.
  - j. Three other residents of this state.
- C. Members of the Council shall serve until September 1, 2009.
- D. A vacancy on the Council shall be filled in the same manner as the original appointment.
- E. The Director of the Department, or his or her designee, shall serve as the Chairperson of the Council. The Council shall elect a member of the Council to serve as Vice-Chairperson of the Council.

### III. CHARGE TO THE COUNCIL

A. The Council shall act in an advisory capacity and shall do all of the following:

1. Identify criteria that can be used to review applications for offshore wind development.
2. Identify criteria for identifying and mapping areas that should be categorically excluded from offshore wind development as well as those areas that are most favorable to such development, and provide these criteria in a report to the Governor by September 1, 2009.
3. The Council's report shall include, but not be limited to, the following:
  - a. A recommended process for engaging the people of Michigan in a public dialogue about offshore wind to ensure that statewide interests are considered whenever significant permitting decisions are made.
  - b. A summary of lessons learned from American and international offshore experience related to public policy, regulatory, and siting concerns for offshore wind development.
  - c. Options for how the public could be compensated for bottomland leasing and wind rights for wind energy systems.
  - d. Recommendations for legislation and for changes in administrative rules and policies related to the siting and development of offshore wind energy systems.
  - e. A recommendation as to whether Michigan should support the preparation of a programmatic environmental impact statement by the federal government for permitting offshore wind development in the Great Lakes basin.
  - f. An estimate of the costs and description of the benefits of continuing the work of the Council, if the Council deems it advisable.
4. Other functions related to the Council's responsibilities as requested by the Governor.
5. The Council shall complete its work by September 1, 2009.

#### IV. OPERATIONS OF THE COUNCIL

A. The Council shall be staffed and assisted by personnel from the Department, subject to available funding. Any budgeting, procurement, or related management functions of the Council shall be performed under the direction and supervision of the Director of the Department.

B. The Council shall adopt procedures consistent with Michigan law and this Order governing its organization and operations.

C. A majority of the members of the Council serving constitutes a quorum for the transaction of the Council's business. The Council shall act by a majority vote of its serving members.

D. The Council shall meet at the call of the Chairperson and as may be provided in procedures adopted by the Council.

E. The Council may establish advisory workgroups composed of representatives of entities participating in Council activities or others deemed necessary by the Council to assist the Council in performing its duties and responsibilities. Such members may include representatives from industry and the academic community, as well as individuals representing U.S. Army Corps of Engineers, the U.S. Fish and Wildlife Service, the U.S. Department of the Interior, the National Oceanic and Atmospheric Administration, the Federal Aviation Administration, and the U.S. Coast Guard. The Council may adopt, reject, or modify any recommendations proposed by an advisory workgroup.

F. The Council may, as appropriate, make inquiries, studies, investigations, hold hearings, and receive comments from the public. The Council may also consult with outside experts in order to perform its duties, including, but not limited to, experts in the private sector, organized labor, government agencies, and at institutions of higher education.

G. Members of the Council shall serve without compensation. Members of the Council may receive reimbursement for necessary travel and expenses consistent with relevant statutes and the rules and procedures of the Civil Service Commission and the Department of Management and Budget, subject to available funding.

H. The Council may hire or retain contractors, sub-contractors, advisors, consultants, and agents, and may make and enter into contracts necessary or incidental to the exercise of the powers of the Council and the performance of its duties as the Director of the Department deems advisable and necessary, in accordance with this Order, the relevant statutes, and the rules and procedures of the Civil Service Commission and the Department of Management and Budget.

I. The Council may accept donations of labor, services, or other things of value from any public or private agency or person.

J. Members of the Council shall refer all legal, legislative, and media contacts to the Department.

## V. MISCELLANEOUS

A. All departments, committees, commissioners, or officers of this state, or of any political subdivision of this state, shall give to the Council or to any member or representative of the Council, any necessary assistance required by the Council or any member or representative of the Council, in the performance of the duties of the Council so far as is compatible with its, his, or her duties. Free access shall also be given to any books, records, or documents in its, his, or her custody, relating to matters within the scope of inquiry, study, or review of the Council.

B. This Order shall not abate any suit, action, or other proceeding lawfully commenced by, against, or before any entity affected under this Order. Any suit, action, or other proceeding may be maintained by, against, or before the appropriate successor of any entity affected under this Order.

C. The invalidity of any portion of this Order shall not affect the validity of the remainder of the Order, which may be given effect without any invalid portion. Any portion of this Order found invalid by a court or other entity with proper jurisdiction shall be severable from the remaining portions of this Order.



D. This Order is effective upon filing.

Given under my hand and the Great Seal of the State of Michigan this 6th day of February in the year of our Lord, two thousand nine.

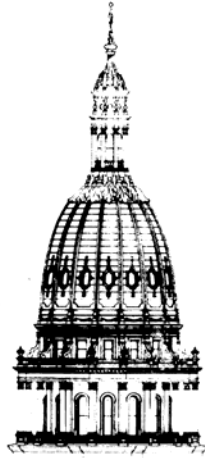
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JENNIFER M. GRANHOLM  
GOVERNOR

BY THE GOVERNOR:

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Secretary of State



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